United Nations CAC/COSP/WG.2/2018/1

Conference of the States Parties to the United Nations Convention against Corruption

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Open-ended Intergovernmental Working Group on Asset Recovery
Vienna, 6 and 7 June 2018

Annotated provisional agenda

Provisional agenda

1. Organizational matters:
   (a) Opening of the meeting;
   (b) Adoption of the agenda and organization of work.
2. Overview of progress made in the implementation of asset recovery mandates.
3. Forum for advancing practical aspects of asset recovery, including challenges and good practices.
4. Thematic discussions:
   (a) Timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention: collection of data with a view to developing non-binding guidelines;
   (b) Improving communication and coordination between various asset recovery practitioner networks, with a view to developing guidelines for the proactive and timely sharing of information.
5. Forum for discussions on capacity-building and technical assistance.
6. Adoption of the report.

Annotations

1. Organizational matters

(a) Opening of the meeting

The meeting of the Open-ended Intergovernmental Working Group on Asset Recovery will be opened on Wednesday, 6 June 2018, at 10 a.m.

(b) Adoption of the agenda and organization of work

The provisional agenda for the meeting was prepared in accordance with resolution 7/1, entitled "Strengthening mutual legal assistance for international cooperation and asset recovery", adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its seventh session, held in

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Vienna from 6 to 10 November 2017, to enable the Working Group to consider the agenda items within the time and according to the conference services available.

In its resolution 7/1, the Conference invited the Working Group to propose future agenda items. It also identified four areas of work related to asset recovery and decided that the Working Group should continue its work by addressing those areas of work. On the basis of that resolution, the Secretariat has prepared a workplan for the period 2018–2019 for consideration by the Working Group.

Documentation

Note by the Secretariat on the proposed workplan of the Open-ended Intergovernmental Working Group on Asset Recovery, 2018–2019 (CAC/COSP/WG.2/2018/4)

2. Overview of progress made in the implementation of asset recovery mandates

The mandate of the Working Group, as set out in Conference resolution 1/4, consists of the following functions:

(a) Assisting the Conference in developing cumulative knowledge in the area of asset recovery;

(b) Assisting the Conference in encouraging cooperation among relevant existing bilateral and multilateral initiatives, and contributing to the implementation of the related provisions of the Convention;

(c) Facilitating the exchange of information by identifying good practices and disseminating them among States;

(d) Building confidence and encouraging cooperation between requesting and requested States by bringing together relevant competent authorities and anti-corruption bodies and practitioners involved in asset recovery and the fight against corruption and by serving as a forum for them;

(e) Facilitating the exchange of ideas among States on the expeditious return of assets;

(f) Assisting the Conference in identifying the capacity-building needs, including long-term needs, of States parties in the prevention and detection of transfers of proceeds of corruption and income or benefits derived from such proceeds and in asset recovery.

In its resolution 7/1, the Conference requested the Secretariat, within existing resources, to assist the Working Group in the performance of its functions, including by providing interpretation services in the six official languages of the United Nations.

Documentation

Note by the Secretariat on progress made in the implementation of asset recovery mandates (CAC/COSP/WG.2/2018/2)

3. Forum for advancing practical aspects of asset recovery, including challenges and good practices

At its previous meetings, the Working Group noted the importance of providing a forum for discussing the practical aspects of asset recovery, including challenges and good practices. In addition, it expressed its appreciation for presentations on new legislation on asset recovery adopted by States parties in compliance with the United Nations Convention against Corruption and recommended that the Secretariat strive, *at future meetings*, to foster such pragmatic approaches.

States parties may wish to come prepared to discuss their good practices and are encouraged to share them with the Secretariat in advance, together with relevant

documentation, for dissemination on the relevant page of the United Nations Office on Drugs and Crime (UNODC) website.

Documentation

Note by the Secretariat on the follow-up to the St. Petersburg Statement transmitting the report of the international expert group meeting on beneficial ownership transparency, held in Vienna from 3 to 4 October 2017 (CAC/COSP/IRG/2018/7)

4. Thematic discussions

(a) Timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention: collection of data with a view to developing non-binding guidelines

(b) Improving communication and coordination between various asset recovery practitioner networks, with a view to developing guidelines for the proactive and timely sharing of information

In its resolution 6/2, the Conference directed the Working Group to initiate the process of identifying best practices and developing guidelines for proactive and timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention.

In its resolution 7/1, the Conference decided that the Working Group should continue its work by, inter alia, continuing to collect data on best practices, with a view to developing non-binding guidelines concerning the timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention, and conducting an analysis of how communication and coordination between various asset recovery practitioner networks could be improved, with a view to developing non-binding guidelines for the proactive and timely sharing of information.

States parties may wish to bring to the discussion examples of asset recovery cases illustrating successful practices and challenges in the proactive and timely sharing of information. Such examples may also touch upon the institutions from which such information originated, the inclusion of such information in subsequent mutual legal assistance requests, and confidentiality requirements. Delegations may also wish to come prepared to discuss their experiences related to communication and coordination between various asset recovery practitioner networks.

To facilitate the Working Group's discussion of the matter, a panel discussion on the timely sharing of information in accordance with article 56 of the Convention and on improving communication and coordination between various asset recovery practitioner networks will be organized.

Documentation

Background document prepared by the Secretariat on the timely sharing of information in accordance with article 56 of the Convention and improving communication and coordination between various asset recovery practitioner networks (CAC/COSP/WG.2/2018/5)

5. Forum for discussions on capacity-building and technical assistance

In its resolution 7/1, the Conference requested UNODC, and invited the Stolen Asset Recovery (StAR) Initiative, to continue to provide and develop capacity-building initiatives on asset recovery, including knowledge products and technical tools, upon request and subject to extrabudgetary resources, in response to technical assistance needs identified during country reviews.

In the same resolution, the Conference called upon States parties to take concrete steps to ensure that there are adequate mechanisms in place to manage and preserve the value and condition of assets pending the conclusion of confiscation proceedings

in another State. It encouraged States parties and UNODC to continue sharing experiences on the management of frozen, seized and confiscated assets, identifying best practices as necessary and building on existing resources, and to consider developing non-binding guidelines on that issue. In that connection, the Secretariat has prepared a study on the effective management and disposal of seized and confiscated assets and developed draft non-binding guidelines on the management of frozen, seized and confiscated assets.

States parties may wish to come prepared to discuss their efforts relevant to capacity-building and technical assistance in the area of asset recovery, as well as to discuss their cooperation in that regard with the providers of technical assistance, including the StAR Initiative and UNODC.

To facilitate the Working Group's discussion of the matter, a panel on technical assistance in relation to articles pertaining to chapter V of the Convention will be organized.

Agenda item 5 will be discussed together with item 4, on technical assistance, of the agenda of the ninth session of the Implementation Review Group at a joint meeting of the Working Group and the Implementation Review Group.

Documentation

Note by the Secretariat on progress made in the implementation of asset recovery mandates (CAC/COSP/WG.2/2018/2)

Draft non-binding guidelines on the management of frozen, seized and confiscated assets (CAC/COSP/WG.2/2018/3)

Study prepared by the Secretariat on effective management and disposal of seized and confiscated assets (CAC/COSP/2017/CRP.8 and e-book publication)

6. Adoption of the report

The Working Group is to adopt a report on its meeting, the draft of which will be prepared by the Secretariat.

Annex

Proposed organization of work

Date and time	*Agenda item*	*Title or description*
Wednesday, 6 June		
10 a.m.–1 p.m.	1 (a)	Opening of the meeting
	1 (b)	Adoption of the agenda and organization of work
	5	Forum for discussions on capacity-building and technical assistance[a]
3–5.30 p.m.	5	Forum for discussions on capacity-building and technical assistance[a]
Thursday, 7 June		
10 a.m.–1 p.m.	2	Overview of progress made in the implementation of asset recovery mandates
	3	Forum for advancing practical aspects of asset recovery, including challenges and good practices
3–6 p.m.	4	Thematic discussions: (a) Timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention: collection of data with a view to developing non-binding guidelines; (b) Improving communication and coordination between various asset recovery practitioner networks, with a view to developing guidelines for the proactive and timely sharing of information
	6	Adoption of the report

[a] Agenda item 5 will be discussed together with item 4, on technical assistance, of the agenda of the ninth session of the Implementation Review Group at a joint session of the Working Group and the Implementation Review Group.

United Nations CAC/COSP/WG.2/2018/2

Conference of the States Parties to the United Nations Convention against Corruption

Distr.: General
4 April 2018

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Open-ended Intergovernmental Working Group on Asset Recovery
Vienna, 6 and 7 June 2018
Item 2 of the provisional agenda*
Overview of progress made in the implementation of asset recovery mandates

Progress report on the implementation of the mandates of the Open-ended Intergovernmental Working Group on Asset Recovery

Note by the Secretariat

I. Introduction

1. In its resolution 1/4, adopted at its first session, the Conference of the States Parties to the United Nations Convention against Corruption established the Open-ended Intergovernmental Working Group on Asset Recovery to advise and assist the Conference in the implementation of its mandate on the return of proceeds of corruption.

2. In the same resolution, the Conference tasked the Working Group with, inter alia, assisting the Conference in developing cumulative knowledge in the area of asset recovery, facilitating the exchange of information, good practices and ideas among States, and building confidence and encouraging cooperation between requesting and requested States.

3. At its second to seventh sessions, the Conference decided to continue the work of the Working Group. The Working Group held its first through eleventh meetings annually in Vienna from 2007 to 2017.

4. The present note has been prepared to inform the Working Group at its twelfth meeting about the status of implementation of its recommendations and of those of the Conference relating to asset recovery. Its purpose is to assist the Working Group in its deliberations and in determining its future activities.

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II. Overview of the status of implementation of the recommendations of the Conference of the States Parties and the Working Group

5. Previous meetings of the Working Group have focused on three main themes: (a) developing cumulative knowledge; (b) building confidence and trust between requesting and requested States; and (c) technical assistance, training and capacity-building.

6. With respect to the development of cumulative knowledge on asset recovery, the Working Group has expressed its continued interest in the development of knowledge products and related tools that would facilitate legislative reforms in the area of asset recovery.

7. The importance of confidence and trust between requesting and requested States for asset recovery has been stressed, in particular as a means of increasing political will, developing a culture of mutual legal assistance and paving the way for successful international cooperation.

8. The Working Group has discussed types of technical assistance relevant to asset recovery, such as capacity-building and training, gap analyses, assistance in drafting new legislation and the facilitation of the mutual legal assistance process, and has recognized the urgent and constant need to provide training.

9. The Working Group repeatedly emphasized its role in contributing knowledge and expertise to the outcomes of the reviews relating to the asset recovery chapter in the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption.

10. The Working Group has repeatedly noted the need to strengthen coordination between various initiatives in asset recovery. In that regard, the work of the Stolen Asset Recovery (StAR) Initiative of the United Nations Office on Drugs and Crime (UNODC) and the World Bank with developing countries and financial centres has been noted.

A. Developing cumulative knowledge

1. Tools for improving asset recovery and efforts for their wide dissemination

11. The Working Group has consistently given high priority to the availability, creation and management of knowledge on asset recovery. During the reporting period, the Working Group reiterated that knowledge products need to be based on broad consultations with experts from different regions and legal systems.

12. During the reporting period, the Working Group also highlighted that tools and knowledge products needed to be widely disseminated, and that follow-up on their effectiveness and usefulness should be considered by the Conference or the Working Group.

13. The Working Group has particularly commended the progress made by the secretariat on the United Nations Convention against Corruption legal library and the Tools and Resources for Anti-Corruption Knowledge (TRACK) comprehensive portal developed by UNODC (available at www.track.unodc.org).

14. Previously, the Working Group called upon States parties to provide regular updates on the information contained in the relevant databases on asset recovery, and recommended to further pursue the collection and systematization of good practices and tools, including for enhancing early and spontaneous information exchange.

15. The Working Group has stressed the usefulness of the existing knowledge products, including those of the StAR Initiative, in building national capacity, and has

requested the secretariat to prepare a list of those products and to ensure their widest possible dissemination.

16. In its resolution 7/1, the Conference called upon States parties to continue their efforts to develop good practices on asset recovery, which contributed to the achievement of the Sustainable Development Goals, and encouraged UNODC to identify good practices and challenges in asset recovery.

17. In the same resolution, the Conference requested the Secretariat, in consultation with States parties, to continue to collect information on the legal framework, legal procedures and judicial actions taken by States parties to recover proceeds of crime derived from corruption under the Convention. In that respect, the information gathered during the first and second review cycles of the Implementation Review Mechanism and the information shared in panel discussions and studies should be taken into account. In the same resolution, the Conference encouraged States parties to make widely available information in this regard, in order to share good practices.

18. In the resolution, the Conference also encouraged States parties to make use of the non-binding Lausanne guidelines for the efficient recovery of stolen assets and the supporting step-by-step guide, when implementing the obligation, pursuant to the Convention, to provide international cooperation for asset recovery.

19. At its previous meetings, the Working Group stressed the importance of modern information technology in developing cumulative knowledge, and requested the secretariat to continue its work to expand the Mutual Legal Assistance Request Writer Tool and to develop similar products.

Action taken

20. The legal library, part of the TRACK web-based platform launched by UNODC on 1 September 2011, contains laws, jurisprudence and information on anti-corruption authorities from over 180 jurisdictions worldwide. Developed and administered by UNODC and supported by the StAR Initiative and partner organizations, the legal library collects and disseminates indexed and searchable legal information according to each provision of the Convention. Legal data received in the context of the Implementation Review Mechanism and validated by States parties under review, including judicial decisions rendered in asset recovery cases, are used to update the information contained in the legal library.

21. At the request of the Working Group, a special section of the TRACK portal is dedicated to asset recovery.[1] This section combines in one place all relevant information and links to data available on asset recovery, i.e., States' legislation relevant to chapter V of the Convention.

22. In addition to the information available through TRACK, a number of policy studies addressing knowledge gaps in specific areas of asset recovery have been produced, including through the StAR Initiative. The process of translating these studies into the six official languages of the United Nations is ongoing and subject to available resources.

23. Additional asset recovery tools are available online. They include: StAR Asset Recovery Watch, a database maintained by the StAR Initiative that tracks efforts by prosecution authorities worldwide to pursue assets that stem from corruption; the StAR Initiative Database of Settlements, which documents more than 500 settlements in cases of transnational bribery that accompanies the StAR Initiative study entitled *Left out of the Bargain: Settlements in Foreign Bribery Cases and Implications for Asset Recovery*; the knowledge products published by the StAR Initiative; the country guides for asset recovery prepared as part of the Action Plan on Asset Recovery of the Deauville Partnership with Arab Countries and other

[1] Available at www.track.unodc.org/assetrecovery/Pages/home.aspx.

country-specific guides; and the step-by-step guides on requesting mutual legal assistance in criminal matters developed by the Group of 20 (G-20) countries.

24. UNODC has contributed to the Lausanne process organized by the International Centre for Asset Recovery of the Basel Institute on Governance, the StAR Initiative and the Government of Switzerland. As part of the process, seminars specifically aimed at asset recovery practitioners have been hosted in Lausanne, Switzerland, since 2001. After finalizing the work on a step-by-step guide to support the practical application and implementation of the Lausanne guidelines for the efficient recovery of stolen assets in 2017, an online tool developed by the co-organizers was launched at the seventh session of the Conference of the States Parties. The guidelines were used as a framework for training in StAR Initiative country engagements and during various recent regional events.

25. UNODC completed its work on upgrading the Mutual Legal Assistance Request Writer Tool, a practical tool designed to assist criminal justice practitioners in expeditiously drafting mutual legal assistance requests, thereby enhancing cooperation between States. In its redeveloped form, the tool integrates features on asset recovery and additional forms and means of international cooperation in criminal matters, including the transfer of criminal proceedings, videoconferencing and, to the extent applicable, joint investigations and international cooperation to conduct controlled deliveries. It also contains an electronic evidence module to facilitate the drafting of mutual legal assistance requests to combat cybercrime and other criminal activities for which electronic evidence is located overseas or exists on the web and/or darknet. UNODC is in the process of preparations for making the tool available to practitioners as an HTML-based stand-alone simple application capable of running on all devices (including tablets and mobile phones). The tool will be available free of charge and will be downloadable from the UNODC website. The tool will be gradually made available in the six official languages of the United Nations.

26. As part of the deliverables for the Global Forum on Asset Recovery, the StAR Initiative has been assisting country authorities in creating beneficial ownership guides for investigators and other interested parties looking for information on the identity of the beneficial owners of an entity incorporated under the laws of a specific foreign jurisdiction. The initiative was launched in 2014 during the third Arab Forum on Asset Recovery and was continued in 2016 as part of the work of the G-20 Anti-Corruption Working Group in 2016. New or updated beneficial ownership guides for Brazil, Italy, Latvia, Nigeria, Ukraine, and the United Kingdom of Great Britain and Northern Ireland were published in 2017 and 2018. A guide for Switzerland is forthcoming.[2]

27. UNODC has fully incorporated modern information technology in the resources developed to support the asset recovery process. All tools and knowledge products developed by UNODC and the StAR Initiative have been made available on the Internet. In addition to those listed above, UNODC also maintains the directories of asset recovery focal points and central and competent authorities under the United Nations Convention against Corruption and, through the StAR Initiative, is involved in the Global Focal Point Initiative supported by the International Criminal Police Organization (INTERPOL) and the StAR Initiative.

28. Efforts are made to actively disseminate knowledge products in various forums, including expert group meetings, training workshops and regional conferences.

2. Close cooperation with financial institutions and financial intelligence units, and greater effectiveness of financial investigations

29. At its third session, the Conference of the States Parties underlined that financial institutions should adopt and implement effective standards of due diligence and financial disclosure as previously highlighted by the Working Group, which had noted

[2] The beneficial ownership guides are available at https://star.worldbank.org/star/content/beneficial-ownership-guides.

the need to increase the responsibility of financial institutions and the financial intelligence units overseeing them. The Working Group also recommended including such institutions in the development of cumulative knowledge on asset recovery. It further encouraged the work on the preventive measures contained in chapter V of the Convention and placed emphasis on effective financial investigations.

30. In its resolution 6/2, the Conference urged States parties to take measures, including to ensure compliance by financial and designated non-financial institutions, to identify, trace, seize, recover and return the proceeds of crime and funds of illicit origin.

Action taken

31. Under its Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism, UNODC mentors and experts continued to assist Member States in building effective systems against money-laundering and the financing of terrorism, including by strengthening financial intelligence units, the analysis of financial information and the development of financial intelligence, as well as the investigation of money-laundering, the disruption of illicit financial flows and interdiction of cash smuggling and the investigation of cryptocurrencies.

32. In addition, cooperation with the Financial Action Task Force (FATF) and FATF-style regional bodies has continued. For example, UNODC is working with the Middle East and North Africa Financial Action Task Force on a collaborative study highlighting the links between corruption and money-laundering, with a specific focus on countries in the Middle East and North Africa region. UNODC has also signed a cooperation agreement with the Inter-Governmental Action Group against Money-Laundering in West Africa to assist countries in West Africa in enhancing their capacities to combat money-laundering.

33. UNODC also supported a number of regional asset recovery networks (see para. 67 below). The Global Programme against Money-Laundering has been organizing regular meetings of operational experts to exchange information on large criminal financial networks capable of moving billions of dollars in crime proceeds. UNODC has started a joint project with the European Union Agency for Law Enforcement Training to train the trainers on financial investigations so as to develop anti-money-laundering capacities in the West Balkans.

3. Gathering of information on international cooperation in civil and administrative proceedings relevant to asset recovery

34. In its resolution 5/3, the Conference requested the Secretariat to invite States parties to provide, to the extent possible, information on mutual legal assistance in civil and administrative proceedings for the identification, freezing and confiscation of assets in accordance with article 43, paragraph 1, and article 46, paragraph 7, of the Convention. A similar mandate was contained in resolution 5/1, entitled "Enhancing the effectiveness of law enforcement cooperation in the detection of corruption offences in the framework of the United Nations Convention against Corruption".

35. In its resolution 6/4, entitled "Enhancing the use of civil and administrative proceedings against corruption, including through international cooperation, in the framework of the United Nations Convention against Corruption", the Conference invited Member States to continue to provide to the Secretariat information on civil and administrative proceedings relating to corruption, when feasible and on a voluntary basis, in order to identify the scope of assistance that could be provided in relation to such proceedings, as well as to provide information about good practices and tools relevant to the implementation of article 53 of the Convention. The Conference further requested the Secretariat to continue collecting and disseminating such information by, inter alia, reporting to the Conference and its relevant subsidiary bodies, including by providing suggestions regarding technical assistance needs and mechanisms to provide such assistance, and developing a study to identify best

practices and ways to facilitate cooperation on the matter, subject to the availability of resources.

36. In its resolution 7/1, the Conference requested the Secretariat to continue, within existing resources, to collect statistics or other relevant information on the use of the Convention as a legal basis for mutual legal assistance, unless a bilateral and regional arrangement applied, and, where appropriate and consistent with domestic legal systems, in relation to civil and administrative proceedings and asset recovery, and to make the information available to the Conference.

37. The Working Group recommended that further information should be collected regarding international cooperation in order to identify the scope of assistance that could be provided in relation to civil and administrative proceedings.

Action taken

38. In February 2018, in accordance with resolution 7/1, the Secretariat circulated a note verbale seeking information on the issues mentioned above.

39. Based on the information received as of 15 March 2018, the Secretariat prepared a report on the progress made in implementing the mandates of the open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption (CAC/COSP/EG.1/2018/2).

4. Gathering information on States' practical experience in the management, use and disposal of frozen, seized and confiscated assets and on best practices in addressing the administration of seized assets

40. In its resolution 7/1, the Conference encouraged States parties and UNODC to continue sharing experiences on the management of frozen, seized and confiscated assets, identifying best practices as necessary and building on existing resources, and to consider developing non-binding guidelines on this issue. It further encouraged States parties to make full use of the possibility of concluding agreements or mutually acceptable arrangements for the return and final disposal of confiscated property pursuant to article 57, paragraph 5 of the Convention and to consider the Sustainable Development Goals in the use and management of recovered assets, while fully respecting the principles of sovereign equality and the territorial integrity of States and of non-intervention in the domestic affairs of other States, in line with article 4 of the Convention.

41. At its eleventh meeting, the Working Group welcomed the study on the effective management and disposal of seized and confiscated assets contained in CAC/COSP/WG.2/2017/CRP.1 and encouraged the secretariat to continue its work on good practices in that regard.

42. The Working Group also noted with appreciation the results of the international expert meeting on the management and disposal of recovered and returned stolen assets and encouraged further compilation of experiences with a view to identifying good practices in that regard.

43. In addition, the Working Group recommended further work on the identification of good practices employed by States parties in that area, including the use of recovered assets to support the achievement of the Sustainable Development Goals. In that respect, gathering additional information on experiences in concluding arrangements and agreements for the disposal of recovered assets in line with the Convention, and analysis of that information, as well as information that was being accumulated through the second cycle of the Implementation Review Mechanism, could provide a useful basis for further discussions on the issue by the Working Group.

Action taken

44. UNODC has prepared a study on the effective management and disposal of seized and confiscated assets, which has been submitted to the Conference of the States parties (CAC/COSP/2017/CRP.8 and e-book publication). The study was aimed at assisting those directly tasked with developing legislative, policy and institutional frameworks on the management and disposal of these assets and covered the experiences of 64 States. An updated version of the study is under preparation and is expected to be available by the end of 2018. States parties are welcome to submit updated information.

45. The secretariat further prepared draft non-binding guidelines on the management of frozen, seized and confiscated assets. The draft was reviewed and validated at an international expert group meeting held in Washington, D.C. on 7 and 8 December 2017, with 46 experts representing 24 States and 2 international organizations, and is being brought to the attention of the Working Group in document CAC/COSP/WG.2/2018/3.

46. With a view to advancing the work to strengthen the recovery and return of stolen assets as included in target 16.4 of the 2030 Agenda for Sustainable Development, UNODC, supported jointly by Ethiopia and Switzerland, has started a process to identify good practices in managing and disposing of recovered and returned stolen assets in support of sustainable development. The first expert group meeting under this initiative was held in Addis Ababa in February 2017. It brought together, for the first time, practitioners working on asset recovery and return, and practitioners working on financing for development.

47. Participants in the expert group meeting agreed that, while the nominal value of recovered assets was high, returned assets could provide for only a small portion of the funds needed to support the Sustainable Development Goals. Furthermore, they emphasized that returned assets should not be left vulnerable to renewed theft, but should instead be used to support investment in support of the Sustainable Development Goals. They concluded that more work was required in three work streams: (a) management of seized and confiscated assets pending return; (b) the end use or disposal of returned assets, including in support of the Sustainable Development Goals; and (c) modalities and negotiation of agreements for returning seized and confiscated assets.

5. Gathering of information on the volume of assets seized, confiscated and returned or disposed of by States

48. In its resolution 6/3, the Conference invited States parties, in accordance with national legislation and policies, to collect and make public data on the volume of assets seized, confiscated and returned or disposed of by their jurisdictions.

Action taken

49. Collecting and publishing data on the volume of assets seized, confiscated and returned or disposed of is a complex issue, yet it is important to assess actual progress. In particular, collecting data is crucial to measure progress towards achieving the Sustainable Development Goals, especially target 16.4 ("By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime"). While some States parties have statistical systems in place, those systems do not necessarily produce data that are internationally comparable over time. Also, weaknesses in the national statistics systems were one of the most frequently identified challenges in the country reviews in the first cycle of the Implementation Review Mechanism.

50. To support States parties in collecting such data, the secretariat presented the Working Group with several possibilities for further discussion (see CAC/COSP/WG.2/2017/3, paras. 48–50).

51. The Working Group may wish to discuss whether this issue should be pursued further.

6. Gathering of information on approaches to transparency of beneficial ownership

52. The Working Group noted the initiative of the secretariat to organize, with support from the Russian Federation, an expert group meeting on transparency of beneficial ownership, and requested the secretariat to update the Working Group on the outcomes of that meeting.

Action taken

53. In execution of this mandate, the secretariat convened an international expert group meeting in Vienna from 3 to 4 October 2017. On the basis of preparatory research and in the light of recent developments, the meeting reviewed the conclusions and recommendations contained in the study *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do about It*, published by the StAR Initiative. The meeting discussed whether new legislation, policy developments and cases of grand corruption that had emerged after the cut-off date for the study confirmed the conclusions and recommendations of the original study, or, instead, indicated new trends. The meeting was attended by more than 30 participants from the public and private sectors, international organizations and non-governmental organizations. A full report of the meeting was made available to the ninth session of the Implementation Review Group (CAC/COSP/IRG/2018/7).

7. Future work of the Working Group

54. In its resolution 7/1, the Conference invited the Working Group to propose future agenda items, and decided that the Working Group should continue its work by, inter alia:

(a) Continuing its efforts to gather information on and conduct enhanced analysis of best practices for the identification and compensation of all different types of victims in accordance with the Convention, including, as necessary, by soliciting information from States parties, facilitating exchanges among experts and organizing expert panels, while taking into consideration similar work undertaken at prior meetings of the Working Group, by expert panels and in discussions;

(b) Conducting analysis on third-party challenges and their impact on asset recovery under chapter V;

(c) Continuing to collect data on best practices, with a view to developing non-binding guidelines concerning the timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention;

(d) Conducting an analysis of how communication and coordination between various asset recovery practitioner networks could be improved, with a view to developing guidelines for the proactive and timely sharing of information, as mentioned in subparagraph 28 (c).

Action taken

55. In carrying out this mandate, the secretariat has prepared a note on the proposed workplan of the Working Group, 2018–2019 (CAC/COSP/WG.2/2018/4).

56. For the present meeting of the Working Group, the workplan provides for a thematic discussion on the timely sharing of information in accordance with article 56 of the Convention, and improving communication and coordination between various asset recovery practitioner networks.

57. To assist the Working Group in the preparation of that thematic discussion, the secretariat has prepared a document on the timely sharing of information in accordance with article 56 of the Convention and improving communication and coordination between various asset recovery practitioner

networks (CAC/COSP/WG.2/2018/5, see also CAC/COSP/WG.2/2017/2 and CAC/COSP/2017/8).

B. Building confidence and trust between requesting and requested States

1. Central authorities, asset recovery focal points and networks

58. The Working Group has requested the secretariat to invite those Member States that have not yet done so to designate a central authority for mutual legal assistance. The Conference made a similar request to all States parties.

59. The Conference has requested the Working Group to continue to consider the issue of establishing a global network of asset recovery focal points as a network of practitioners, without duplicating existing networks, to facilitate more effective cooperation. The Working Group has underlined the need for a global network of focal points on asset confiscation and recovery with technical expertise, and has emphasized the need for collaboration and coordination between regional networks.

60. The Conference, in its resolution 6/3, encouraged States parties to apply lessons learned in all areas of asset recovery cooperation through, inter alia, enhancing international cooperation, including through participation in international law enforcement networks, such as the asset recovery focal points under the Convention, the Global Focal Point Initiative supported by INTERPOL and the StAR Initiative, and the Camden Asset Recovery Inter-Agency Network, as well as regional initiatives such as the Arab Forum on Asset Recovery.

61. In its resolution 7/1, the Conference urged States parties to ensure that the information provided regarding their central and competent authorities, in line with article 46, paragraph 13, of the Convention, was up to date, in order to enhance the dialogue on mutual legal assistance.

62. The Working Group has recommended that UNODC explore how the database of asset recovery focal points could be amended to make it possible to ascertain the contact details of persons in other jurisdictions.

63. The Working Group has also urged States parties to continue to work towards identifying and addressing practical barriers to cooperation in asset recovery and towards finding solutions.

Action taken

64. The online directory of competent national authorities, including central authorities for mutual legal assistance and asset recovery focal points, is available at www.unodc.org/compauth_uncac/en/index.html.

65. The secretariat continued to update the online directory. As of 27 March 2018, it contained information on:

(a) Central authorities for mutual legal assistance in 129 States parties;

(b) Prevention authorities in 112 States parties;

(c) Asset recovery focal points in 80 States parties;

(d) Central authorities on extradition in 23 States parties;

(e) Focal points for international cooperation in the use of civil and administrative proceedings in 32 States parties.

66. The Global Focal Point Initiative supported by INTERPOL and the StAR Initiative was launched in January 2009 to support the investigation and prosecution of corruption and economic crime through international cooperation and informal assistance for the purpose of identifying, tracing, freezing and ultimately recovering the proceeds of corruption and economic crime. Focal points can exchange

information and technical knowledge on corruption and asset recovery through the secure communication system for asset recovery (I-SECOM). As of 21 March 2018, 234 dedicated focal points representing 133 countries were participating in the platform. Following the seventh Global Focal Point Conference on Asset Recovery, which was co-hosted by the Royal Canadian Mounted Police in Ottawa from 6 to 8 June 2017, preparations are being discussed for the next Global Focal Point Conference, to be held in early 2019.

67. UNODC and the StAR Initiative continued their support for the strengthening of regional networks engaged in asset recovery and confiscation. At the time of reporting, there were six regional networks, all following the model of the Camden Asset Recovery Inter-Agency Network:

(a) The Asset Recovery Inter-Agency Network for Southern Africa (ARIN-SA) is composed of 13 countries and provides a community platform to facilitate the exchange of information and a wildlife and forestry crime platform through which it is linked to the Asset Recovery Inter-Agency Network for Asia and the Pacific. ARIN-SA runs a mentor programme and a prosecutor placement programme and is due to commence an investigator placement programme. ARIN-SA collects statistics on seizures and confiscations by its member States;

(b) In October 2017, The Asset Recovery Network for West Africa and the Network of West African Central Authorities and Prosecutors against Organized Crime held a joint plenary in Conakry. UNODC is assisting the Asset Recovery Network for West Africa in the operationalization of its secretariat;

(c) The StAR Initiative participates in meetings of the Asset Recovery Network of the Financial Action Task Force of Latin America as an observer. The 19 member States and 5 international organizations of the Asset Recovery Network established by the Task Force countries have increased operational capacity to investigate non-conviction-based confiscation cases more effectively as a result of the exchange of technical knowledge and stronger relationships between the countries;

(d) The StAR Initiative has worked with the Asset Recovery Inter-Agency Network for Eastern Africa (ARIN-EA) and facilitated training workshops in the past;

(e) The Asset Recovery Inter-Agency Network for Asia and the Pacific held its steering committee and annual general meeting in September 2017 in Tokyo, in which UNODC and the StAR Initiative participated as observers;

(f) The Asset Recovery Inter-Agency Network for the Caribbean was inaugurated in June 2017 with the support of the Organization of American States.

68. At the time of writing, the StAR Initiative was finalizing a publication intended to serve as a directory to various asset recovery networks, providing for each network certain basic information, what it can offer and its contact information. The publication will be presented to the Working Group at its twelfth meeting.

2. Cooperation between financial intelligence units and anti-corruption agencies

69. The Working Group has recommended strengthening cooperation between financial intelligence units, anti-corruption authorities and central authorities responsible for mutual legal assistance at the national and international levels. Further cooperation with existing networks and institutions such as the Egmont Group of Financial Intelligence Units and the International Association of Anti-Corruption Authorities should be explored.

70. The Conference, in its resolution 6/3, encouraged States parties to consider making use of opportunities for cooperation through existing practitioner-based networks, such as the asset recovery focal points under the Convention, the Global Focal Point Initiative, and the Camden Asset Recovery Inter-Agency Network, and information provided at the financial intelligence unit level, in the course of making requests for mutual legal assistance.

Action taken

71. UNODC works closely with and supports the activities of the International Association of Anti-Corruption Authorities and participates in its Executive Committee.

72. UNODC continues to be involved in activities of the Egmont Group, and the StAR Initiative participated in the Egmont Group meetings in Argentina from 14 to 18 March 2018.

73. Both the UNODC Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism and the StAR Initiative continued to work with financial intelligence units to assist them in joining the Egmont Group and in implementing the Egmont standards for the exchange of information on countering money-laundering and the financing of terrorism. The UNODC Global Programme against Money-Laundering also continued to promote inter-agency cooperation and to highlight the fact that any anti-money laundering/countering the financing of terrorism regime will fail without such cooperation, especially without cooperation between financial intelligence units and anti-corruption agencies.

74. The StAR Initiative is finalizing a new publication on financial intelligence units working with law enforcement authorities and prosecutors, which will highlight the importance of cooperation. The publication will be based on a joint study by the World Bank, the Egmont Group and UNODC. Its main purpose is to support the implementation of international standards for countering money-laundering and the financing of terrorism and to suggest solutions in areas currently not governed by international standards. The findings and recommendations presented in the publication may serve as a basis for the Egmont Group and other international bodies to improve their policies related to cooperation between financial intelligence units on one hand and law enforcement agencies and prosecutors on the other.

3. Promoting dialogue and removing barriers to asset recovery

75. Prior to the first Global Forum on Asset Recovery, the Working Group emphasized the need for the Secretariat to further strengthen its work with regard to promoting dialogue between requested and requesting States; building trust and confidence and nurturing and further strengthening political will in ensuring asset recovery, including in its work with other intergovernmental organizations, in organizing the first Global Forum on Asset Recovery and in the context of G-20.

76. In its resolution 5/3, the Conference called upon States parties to give particular and timely consideration to the execution of international mutual legal assistance requests that needed urgent action, including those related to the States concerned in the Middle East and North Africa, as well as other requesting States.

77. In its resolution 6/2, the Conference called upon States parties to give particular and timely consideration to the execution of requests for mutual legal assistance in asset recovery, and in resolution 6/3 it encouraged States parties to remove barriers to asset recovery, including by simplifying legal procedures, while preventing their abuse.

78. In its resolution 7/1, the Conference urged States parties, where appropriate and in accordance with their domestic legal principles, to remove barriers to asset recovery, including by simplifying legal procedures, while preventing their abuse, and by processing requests for assistance without delay, in order to enhance international cooperation under chapters IV and V of the Convention, acknowledging the fundamental principles of due process of law in criminal proceedings and in civil or administrative proceedings to adjudicate property rights.

79. In the same resolution, the Conference called upon States parties to afford one another the widest measure of cooperation, in line with article 51 of the Convention, and to make increased efforts to ensure the return or disposal of confiscated property in accordance with article 57 by taking measures to the greatest extent possible within their domestic legal systems:

(a) To prevent, detect and deter in a more effective manner the international transfer of proceeds of crime derived from corruption;

(b) To identify, trace, seize, recover and return proceeds of crime derived from corruption, including by taking measures to enhance compliance by banks and designated non-bank financial institutions.

80. The Working Group has recommended exploring the feasibility of adopting a help desk approach to asset recovery to give advice during the initial stages of a case in an informal manner and to refer requesters to counterparts who would be able to provide further assistance.

Action taken

81. UNODC, including through the StAR Initiative, is actively engaged in advocacy in a number of international forums to strengthen political will, including the Anti-Corruption and Transparency Working Group of Asia-Pacific Economic Cooperation (APEC), INTERPOL, the European Union and Eurojust, the Group of Seven (G-7), the G-20 Anti-Corruption Working Group and the World Economic Forum, in particular its Partnering against Corruption Initiative.

82. UNODC continued to raise awareness about the importance of the ratification and full implementation of the United Nations Convention against Corruption, emphasizing the importance of its provisions on asset recovery, as an observer at the meetings of the G-20 Anti-Corruption Working Group. UNODC supported the implementation of the G-20 Anti-Corruption Action Plans for the period 2017–2018.

83. UNODC and the StAR Initiative participated in various meetings related to money-laundering in order to promote coordination with regard to asset recovery. The StAR Initiative has continued its close working relationship with FATF, especially in the FATF plenary meetings, and has continued to participate in relevant meetings and consultations with FATF-style regional bodies.

84. The International Anti-Corruption Coordination Centre (IACCC), whose establishment had been recommended by the Anti-Corruption Summit held in London in May 2016, became operational in 2017. Its purpose is to provide countries with timely support for the recovery of stolen assets. UNODC and the StAR Initiative have been in contact with authorities involved in setting up IACCC to coordinate the preparation of its operationalization, and have invited IACCC to participate in various meetings.

85. At the Anti-Corruption Summit, States also decided to convene the Global Forum on Asset Recovery in 2017 to provide a venue for countries seeking to advance the recovery of assets. The Forum was held in Washington, D.C. from 4 to 6 December 2017. It was co-hosted by the United Kingdom and the United States of America and supported by the StAR Initiative. Nigeria, Sri Lanka, Tunisia and Ukraine were the focus countries at the Forum. The Global Forum's deliverables included progress on cases achieved by the four focus countries, increased capacity through technical meetings, renewed commitment to advancing asset recovery cases, and increased collaboration among the jurisdictions involved. The Global Forum built on the previous experiences of the Arab Forum on Asset Recovery and the Ukraine Forum on Asset Recovery. As the Global Forum was aimed at achieving progress in asset recovery, the StAR Initiative worked through its country engagements with the four focus countries, organized more than 80 case coordination meetings for practitioners of the relevant jurisdictions and provided an enabling environment for in-depth discussions and for advancing specific cases. On the margins of the Global Forum, a side event was held on the Arab Forum to discuss lessons learned of the process under the Deauville Partnership with Arab Countries.

86. UNODC was a co-organizer, together with China and Thailand, of the APEC workshop on asset recovery, held from 20 to 22 March 2018 as part of the activities of the APEC Anti-Corruption and Transparency Working Group.

C. Technical assistance, training and capacity-building

87. The Working Group has emphasized the high demand for technical assistance in the implementation of chapter V of the Convention, especially for legal advisory services, and the need for tailor-made approaches. It has emphasized the importance of providing technical assistance in the field of mutual legal assistance to officials and practitioners to enable them to draft requests and responses to requests.

88. The Working Group has also emphasized the importance of strengthening the capacity of legislators, law enforcement officials, judges and prosecutors on relevant matters and has stressed the need for specialized training and capacity-building activities, and the importance of granting sufficient resources to UNODC and other relevant assistance providers. In addition to activities such as seminars and training courses, the Working Group has encouraged the Secretariat to organize training sessions using innovative technology such as electronic learning programmes.

89. The Working Group has recommended that UNODC seek to forge more partnerships and coordinate additional technical assistance activities in matters related to asset recovery with other relevant organizations and bodies and has requested the Secretariat to promote ways and means for Member States to request technical assistance through the StAR Initiative at both the national and regional levels.

90. The Working Group has recommended that States parties consider adopting a curriculum approach to technical assistance programmes, with coordination at the regional level in order to ensure the most effective use of limited available resources.

91. In its resolution 6/3, the Conference urged States parties to ensure that they have adequate legal and institutional frameworks in place to prosecute corruption, to detect the illegal acquisition and transfer of assets derived from corruption, to request and provide international legal cooperation, including mutual legal assistance, to ensure that there are suitable mechanisms in place to recover through confiscation the identified proceeds of corruption, to enforce foreign conviction-based and non-conviction-based orders in accordance with the requirements of the Convention and to ensure that such frameworks are enforced, and encouraged technical assistance in this regard.

92. In its resolution 7/1, the Conference requested UNODC, and invited the StAR Initiative, to continue to provide and develop capacity-building initiatives on asset recovery, including knowledge products and technical tools, upon request and subject to extrabudgetary resources, in response to technical assistance needs identified during country reviews.

Action taken

93. UNODC has regularly responded to technical assistance requests by States parties in order to strengthen their capacity in implementing chapter V of the Convention and their full participation in the Mechanism, both before and after the official start of the second cycle of the Implementation Review Mechanism in June 2016.

94. In 2016 and 2017, UNODC facilitated regional and national training sessions on the second review cycle for focal points and reviewing experts from all States parties under review and all reviewing States.

95. UNODC, through the StAR Initiative and by other means, continued to provide demand-driven, country-specific assistance to States in their asset recovery efforts. In the reporting period, 24 countries and three regional networks were receiving such assistance, and new requests were received. In addition, UNODC and the StAR Initiative worked with a number of other jurisdictions and with regional and/or international organizations in areas such as capacity-building and technical assistance. A multitude of training events were delivered at the international, regional, and national levels on topics such as national coordination, international cooperation,

mutual legal assistance for asset recovery, financial investigations including the effective use of open-source data, the management and disposal of seized and confiscated assets, and the prevention of illicit financial flows.

96. Country engagements constituted the majority of the activities of the StAR Initiative. They are designed as multi-year programmes that cover a range of diverse activities including the establishment of asset recovery strategies and asset recovery and asset management offices, financial investigation techniques, asset disclosure, forensic audits to prepare cases, case management advice and the facilitation of contacts with other jurisdictions.

97. In the area of legislative assistance, UNODC has continued to work with States to assess their implementation of the provisions of chapter V of the Convention. In addition, UNODC and the StAR Initiative have responded to several other requests from States with respect to conducting desk reviews of legislation or assisting in drafting legislation.

D. Reporting and follow-up

98. The Working Group may wish to provide further guidance on the development of guidelines, good practices and other tools to improve the implementation of chapter V of the Convention.

99. Specific guidance with respect to future work could cover the following areas: non-binding guidelines for the effective management and disposal of seized and confiscated assets; non-binding guidelines for the proactive and timely sharing of information; the focus of work related to improving the transparency of beneficial ownership information; and developing good practices on asset return.

100. The Working Group may also wish to discuss how it sees its future role as a unique global gathering of experts in asset recovery and how that gathering could be used to enhance international cooperation in asset recovery, including by providing opportunities for case consultations on its margins.

101. In view of the recommendation to explore a help desk approach to asset recovery, the Working Group may wish to provide further guidance on such an approach and in particular on the role UNODC or the StAR Initiative could play in facilitating the process by, for example, referring requesters to counterparts who would be able to provide advice during the initial stages of a case.

102. The Working Group may also wish to provide further guidance on the options for collecting data on the volume of assets seized, confiscated and returned or disposed of by States.

103. In the areas of training and technical assistance, the Working Group may wish to provide guidance on the role of UNODC in the delivery of assistance at the national and regional levels, including through the StAR Initiative, and to encourage States to take advantage of available opportunities for capacity-building in the area of asset recovery.

104. More concretely, in the light of the progress made with the reviews relating to chapter V of the Convention, the Working Group may wish to consider how best to address the needs that are being identified in those reviews, so as to ensure that States parties can avail themselves of the expertise and assistance they need in a timely and effective manner.

105. The Working Group may wish to continue to encourage States to make use of their reviews under the second review cycle to enhance their implementation of chapter V of the Convention and request technical assistance to address any challenges identified.

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Draft non-binding guidelines on the management of frozen, seized and confiscated assets

Note by the Secretariat

1. At its fifth session, held in Panama City from 25 to 29 November 2013, the Conference of the States Parties to the United Nations Convention against Corruption adopted resolution 5/3, in which it encouraged States parties and the United Nations Office on Drugs and Crime (UNODC) to share experiences on the management, use and disposal of frozen, seized and confiscated assets, and to identify best practices as necessary, building upon existing resources that address the administration of seized assets, and to consider developing non-binding guidelines on that issue. At its sixth and seventh sessions, the Conference reinforced that mandate.

2. The purpose of the non-binding guidelines is to enhance effective approaches to asset management and disposal on the basis of the lessons learned from a broad range of countries. The guidelines are aimed at supporting States parties in the effective implementation of article 31, paragraph 3, of the United Nations Convention against Corruption, which obliges States parties to adopt measures to regulate the administration by the competent authorities of frozen, seized or confiscated property.

3. The non-binding guidelines are based on the work undertaken by UNODC since 2014, in cooperation with the government of Calabria, Italy, in particular on the study entitled *Effective Management and Disposal of Seized and Confiscated Assets*. In addition, they were discussed, reviewed and validated during the international expert group meeting on identifying good practices in the management and disposal of seized and confiscated assets, held in Washington, D.C., on 7 and 8 December 2017, with the participation of 46 experts representing 24 States and two international organizations.

4. The non-binding guidelines address three areas: (a) the administration of assets and, where possible, their disposal prior to a final confiscation; (b) the enforcement of confiscation orders and the use of confiscated assets; and (c) the institutional structure for asset management.

* CAC/COSP/WG.2/2018/1.

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5. Although the non-binding guidelines are not intended to impose any obligation on States parties, they may wish to take them into consideration, where appropriate, in improving their domestic procedures. As a potential next step, the non-binding guidelines could be complemented by a directory of country-specific resource material that reflects the broad range of approaches to asset management and disposal. The draft non-binding guidelines are set out in the annex to the present note.

Annex

Draft non-binding guidelines on the management of frozen, seized and confiscated assets

A. Administration of assets and, where possible, their disposal prior to a final confiscation

Guideline 1

States should build capacity in, and dedicate the necessary resources to, pre-seizure planning

Pre-seizure planning is the process of evaluating assets and confiscation scenarios prior to freezing assets or seizing property, with a view to assessing the options available and taking informed decisions. States should aim at making pre-seizure planning part of the routine, everyday work of law enforcement agencies. Decisions to be taken include the following:

- Should interim measures be taken at all?
- Which assets should be seized?
- Should the asset be left under the control of the owner or possessor (freezing), or should the responsible State institution take it under its control (seizure) (see guideline 3)?
- If the asset is left under the control of the owner or possessor, which restrictions on its use and disposal should be requested?
- If the asset is placed under the control of the responsible State institution, which administrative measures need to be prepared? Which legal liabilities and reputational risks need to be managed?
- Is there potential for pre-confiscation sale, disposal or use (see guidelines 2 and 3)?
- Does the management of the asset require a specific skill set not available within the authority responsible for the management of seized and confiscated assets, and what legal avenues are available to employ such skills, either through contractors or by applying to the court for the appointment of an asset manager?

The aim should be to draw up a logistical plan starting from the day of the seizure of the asset.

Legislation or standards of practice should define procedures for pre-seizure planning and provide criteria or guidance on when to seize property or freeze assets, taking into account, for example, expected resource requirements for maintenance, the estimated value of the asset to be seized and the law enforcement objectives of the interim measure. The responsibility for pre-seizure planning should generally lie with the entity responsible for the management of seized assets, in a consultative process with (other) law enforcement institutions.

Informed decisions on the questions listed above require the capacity for detailed research into the conditions, location, ownership status, value, law enforcement benefits and specialist expertise needed for the management of the asset. Law enforcement agencies need to have access to the multidisciplinary skill set necessary to take informed decisions in the pre-seizure phase.

Guideline 2

States should permit pre-confiscation sale with the owner's consent or without the owner's consent in defined scenarios

The ultimate goal when managing seized assets is to ensure that they are preserved at minimum cost and yield maximum return when realized. In view of the cost of asset management and the time needed until a final decision is made, States should consider the possibility of pre-confiscation sale or disposal (also referred to as interim sale, interlocutory sale, early sale or anticipated sale), which consists in disposing of assets before a final court decision. States must strike a balance between the cost-efficiency of asset management and the legitimate interest of the owner in the preservation and return of the asset when a confiscation order is not granted.

Therefore, priority should be given to obtaining the owner's consent, which allows the costs related to interim management to be mitigated while protecting the owner's substantive and procedural rights.

Pre-confiscation sale or disposal should also be allowed even without the owner's consent for certain categories of assets, such as the following:

- Perishable assets
- Rapidly depreciating property
- Assets whose storage or maintenance cost is disproportionate to their value
- Assets that are difficult to manage, or whose management requires special conditions or expertise not readily available
- Assets that are easy to replace
- Assets whose owner has absconded

Some countries also allow the sale of assets under certain additional conditions in order to pay for the costs of legal representation and expenses incurred for other seized assets.

Proceeds from pre-confiscation sale or disposal should be secured until a final decision is reached. Legislation should also determine who receives the interest earned, if any, in case the property is returned to the owner. The identity of buyers should be protected to avoid retaliation by the former possessor.

Guideline 3

States should provide for a range of choices for interim measures, including (a) retaining the asset in the possession of the owner or possessor; (b) potentially, the interim use of assets; and (c) the destruction of unsafe, hazardous property

With a view to the policy objectives of the interim stage, legislation should include the possibility of (a) retaining an asset under the custody and control of its owner or the persons or entity that held it prior to the interim order, subject to restrictions on use, together with a positive obligation to maintain its value (freezing instead of seizure); (b) placing the asset in the custody of a third party, including the State and its institutions, which can ensure its productive use; and (c) destroying unsafe, hazardous property.

Leaving the asset under the control of the owner or possessor can be cost-effective, as expenditures such as those related to the cost of storage, maintenance and security may thereby be avoided. However, freezing orders also require resources, because institutions need to monitor compliance with the court's order.

The interim use of assets is a controversial measure because it may cause their deterioration and depreciation, which makes it challenging to guarantee the legitimate interest of the owner in the preservation and return of the asset when a confiscation order is not granted. States that allow for interim use of assets should carefully analyse how the measure is applied in each concrete case in order to ascertain the risk of future

claims for compensation and damage. They should require the recipient institution to provide appropriate guarantees that the asset will be returned in a good state, and may also require full-risk insurance coverage from the institution. A fund should be created with the objective of bearing the costs not covered by such an insurance policy. Unless there is a compelling purpose, the interim use of assets by law enforcement should be avoided because it can create incentives for law enforcement to seize assets for the purpose of benefiting from them, rather than for genuine law enforcement objectives.

When dealing with hazardous property, States should ensure that the procedure for its disposal is speedy and efficient, including when the asset is under the control of third parties.

Guideline 4

States should notify third parties of the interim measures and give them the opportunity to challenge them before a judicial authority

States must ensure the protection of bona fide third parties during the period of effectiveness of interim measures (see art. 31, para. 9, of the Convention). In this regard, States should consider adopting legislation to guarantee that (a) the interim measures are communicated to the persons or entities affected by the measures as soon as possible; and (b) those persons or entities have the opportunity to challenge them before a judicial authority at an early stage.

Distinguishing, during the interim stage, a bona fide third party from persons associated with the suspect or acting at the suspect's behest may be challenging. Thus, in order to determine the nature of third-party claims, the following factors may be assessed:

- Did the third party take action to prevent the offence?
- Is the third party implicated in any other related offence?
- Does the third party have a legitimate interest in the property and have an arm's-length relationship with the suspect?
- Did the third party act diligently and in accordance with the law in the creation of the interest in the asset?

B. Enforcement of confiscation orders and the use of confiscated assets

Guideline 5

States should provide a range of choices for confiscation, so that practitioners can take into account the most cost-efficient and productive method for the disposal of assets when ordering confiscation

When a confiscation order is requested and made, practitioners should be in a position to take informed decisions in order to fully implement the policy objectives of the confiscation. Confiscation systems should therefore allow for confiscation orders that are tailored to the specific confiscation case, including as follows:

- States should provide not only for object-based confiscation, but also for value-based confiscation that allows for the confiscation of any property the value of which corresponds to that of the proceeds of the alleged offence (see art. 31, para. 1 (a), of the Convention).
- Value-based confiscation should be an available option regardless of whether the asset constituting the proceeds of the offence is still within the property of the addressee of the confiscation order.
- When value-based confiscation orders are made, effective enforcement procedures beyond civil collection should be available. These could include special realization proceedings for confiscation cases, penal execution

proceedings against third persons cooperating with the offender or additional periods of imprisonment for non-compliance with the order. Some States use civil collection procedures but give the asset management office specific powers, for example, the right to request information on the financial situation of the convicted person from all administrative services of the Government.

- In order to ensure the practical enforceability of value-based confiscation orders, States should ensure that sufficient assets are frozen or seized from the outset.
- With regard to object-based confiscation orders, there should be a transparent procedure to decide whether to sell confiscated assets or retain them for use by the State, for example, by law enforcement.
- When confiscated assets are sold, the identity of buyers should be protected to avoid retaliation by the former possessor.

Guideline 6

States should articulate in their legislation their fundamental policy preferences for the allocation of confiscated assets

There are, in particular, two options for the disposal of confiscated assets: their allocation to the national revenue fund to meet general government priorities, or to specific objectives, such as crime prevention. Allocating confiscated proceeds to the national revenue fund may be the most cost-effective form of disposal, and has the advantage that general approval and oversight mechanisms apply in its administration. On the other hand, allocating the proceeds to specific programmes creates a direct link between asset confiscation and specific policy objectives such as the compensation of victims, the benefit of communities and the fight against crime, thus adding symbolic value to the allocation. Moreover, it makes it easier to track the use of confiscated assets and makes their use concretely visible.

Guideline 7

When States allocate confiscated proceeds to specific objectives, they should establish clear rules for determining the beneficiaries

States that have opted to allocate proceeds to specific objectives should lay down clear and detailed rules on how the beneficiaries of confiscation orders are determined, which may include the following:

- Some countries have opted for the proceeds of confiscation orders to be paid into a designated asset recovery fund established by law. This is an interesting option when funds to be allocated exceed a critical mass. Asset recovery funds require their own infrastructure and oversight mechanisms (see guideline 8).
- Some countries allow the proceeds of the disposal of assets to be used to fund the asset management office. This can significantly boost the asset recovery programme, in particular in countries with intense competition for resources from other priorities. Such an approach can lead to wholly or partially self-funding asset management offices (see guideline 14).
- Some countries also allow the use of confiscated proceeds for specific law enforcement purposes outside of the ordinary budgetary process (see guideline 8).
- Several international instruments encourage States to prioritize the use of the proceeds of a crime to compensate its victims (e.g., art. 35 of the Convention against Corruption and art. 25 of the United Nations Convention against Transnational Organized Crime).
- Social reuse initiatives make the confiscated property available to the affected communities in an effort to restore compliance with and confidence in the rule of law. Social reuse is particularly relevant to societies in which criminal groups

have become so entrenched in communities that law enforcement action against them is met with hostility, if not active resistance (see guideline 8).

Guideline 8

Disposal of assets must be managed with transparency and accountability, in particular when specific funds or programmes are used

In all cases, transparency and accountability are key factors for the effective management and disposal of assets, as well as for addressing corruption risks inside asset management offices themselves. This is of particular importance where general transparency and accountability rules do not apply, for example, where specific structures for disposal have been established. Asset recovery funds or specific projects need to allocate capacity and resources to ensure the transparent management and accountability of such structures. In that regard, the following should be taken into consideration:

- If a country chooses to establish an asset recovery fund, the law should specify the persons with responsibility for making decisions regarding the fund, the purposes for which the deposited funds can be used and the fund's oversight mechanisms, including clear audit and reporting obligations. Special funds typically require infrastructure to manage and account for deposits received and outgoing transfers. Where the legislation is silent on the purposes for which the funds may be used, mechanisms must be put in place to ensure their fair and transparent allocation. After the costs associated with the management and sale of an asset are recouped and the victims' claims are satisfied, a certain amount may be retained for operational expenses, under strict auditing controls.
- If law enforcement agencies are allowed to benefit from confiscated assets, safeguards should be established to avoid any direct link between confiscated assets and rewards provided to law enforcement officials, in order to avoid creating improper incentives.
- If States institute social reuse initiatives, they should develop a coherent strategy for their implementation and verify the use to which the allocated funds or assets have been put. Moreover, States should ensure that the necessary infrastructure is in place to support, monitor and account for such projects.

Guideline 9

States should have procedures for the prompt return of confiscated assets if the order is not granted

In the event that the accused is acquitted or a final confiscation order is not issued, the property must ordinarily be returned as quickly as possible. The circumstances under which an owner is entitled to claim compensation should be outlined in legislation, for example, in cases where property has been lost or degraded as a result of negligence on the part of the asset manager. How such claims are to be administered should be specified in the legislation. States should ensure that the responsible authority is not exposed to incalculable risks in terms of compensation claims, either by limiting its liability to only that of gross negligence and intentional damage caused to the asset or by providing for insurance coverage against such risks.

In some States, before returning seized property to its owner, government departments that have outstanding debts owed to them by the accused are allowed to recover payment from the seized funds. This applies in particular to tax authorities and social security contributions.

Guideline 10

All persons having an interest in the assets should have an opportunity to make their claim known

Third parties should be notified of the confiscation order and have the opportunity to make their claim known during confiscation proceedings, as during the interim phase (see guideline 4).

C. Institutional structure for asset management

Guideline 11

When establishing their asset management offices, States should take into account the volume of assets being seized and confiscated, the skill set already available in their public institutions and the requirements for autonomy and accountability of the asset management office, and ensure that it may participate in pre-seizure planning

States have developed a variety of institutional arrangements for the cost-effective preservation of seized assets and for securing the maximum return on the confiscated assets. The following broad categories lend themselves to further consideration by States wishing to establish an asset management office:

- *Asset management offices located within an existing law enforcement agency or responsible ministry* (examples of States with such arrangements include Belgium, Czechia, the Netherlands, Thailand and the United States of America). In some of these countries, the asset management office is also responsible for promoting asset confiscation as a law enforcement tool, in addition to the usual asset management functions. For example, such offices have a role in asset tracing, training and advising other practitioners on confiscation, serving as the focal point for international asset recovery cooperation, pre-seizure planning, litigation support or distribution of proceeds.

- *Asset management offices located within public service entities with additional property management-related functions* (examples of States with such arrangements include Australia, Mexico and New Zealand). These offices make full use of the specialized and multidimensional skills typically available in property management offices.

- *Self-standing asset management offices* (examples of States with such arrangements include Canada, Colombia, France and Honduras). This option is considered particularly desirable when the scale of confiscated assets has reached a level that justifies the cost of operating such an office. The establishment of a self-standing asset management office can also be motivated by a desire to separate investigative and prosecutorial functions from asset management functions. All institutions must remain diligent in ensuring fluid communication between investigative, prosecutorial and managerial bodies.

Notwithstanding the institutional arrangements a State chooses, in some legal systems courts generally appoint the asset management office as the receiver of the assets. Furthermore, in some countries, judicial managers are appointed specifically to deal with complex assets. Alternatively, an asset management office may employ contractors from the private sector for that purpose (see guideline 12).

Guideline 12

States should equip their asset management offices with the skills and capacities, as well as empower them to enter into any necessary agreements, as required for their effective functioning

The same capacities, functions and expertise are typically required, regardless of the type of asset management system in place, including the following:

- Expertise in asset inspection, appraisal and valuation
- Asset registration and data management (see guideline 13)
- Storage and transportation facilities
- Specialized skills related to the management of complex assets
- The capacity to provide pre-seizure advice to other authorities

Depending on the size of the office, the assets regularly managed and the resources available, such capacity may be developed in-house or provided by external contractors.

Asset management offices should be able to either contract all necessary expertise or apply to the court for the appointment of asset managers with specific expertise not available in the asset management office. In addition, asset management offices should be able to enter into any contracts that make their work cost-effective, for example, to make improvements to an asset that go beyond mere maintenance, with the aim of selling the asset at a better price.

Guideline 13

States should invest in the resources necessary for central asset registration, databases and data management

Monitoring the location, maintenance, costs incurred and payments made with regard to an asset management order is important for the effective and accountable management of assets. Such information should be kept throughout all phases of a case, including investigation, interim measures, confiscation and disposal. Even if different law enforcement agencies own the information, it should be fed, consistently, into a centralized, structured database maintained by specialized personnel (detailed recommendations on the content of such databases have been made by the Organization of American States). Ensuring consistency may require the allocation of special resources. Many States have developed their own information technology solutions, as existing databases have not met their expectations.

Guideline 14

States should ensure that, over time, asset management offices become economically viable, and should assess whether the offices should be allowed to fund their operations wholly or partially from confiscated proceeds

The asset management office should include in its budget, inter alia, the following:

- General operating costs, including those related to the staffing of the office with the necessary skills and capacities (see guideline 11), office space and the employment of specialist contractors
- For seized assets, the costs of registration and data management (see guideline 13), storage and active maintenance incurred to maintain the value or profitability of the asset, including for improvements enabling it to be sold at a better price
- Costs related to the monitoring of compliance with the conditions imposed in a freezing order
- Litigation costs

Which funding model is employed to maintain the asset management office depends on the decisions taken with regard to the disposal of confiscated assets (see guidelines 6 and 7), in particular whether the asset management office can be funded from recovered proceeds.

Over time, the operating costs of asset management offices might increasingly be financed from the proceeds of the sale of confiscated property, the income earned from investments made with seized cash and the proceeds of pre-confiscation sales, fees earned from the management of productive assets and, in some countries, from fines imposed. Some asset management offices have not only become self-funding but produce net proceeds that are regularly fed into the national budget or government funds. Nevertheless, it is important to plan for sufficient external resources for the initial stages of establishing an asset management office.

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Conference of the States Parties to the United Nations Convention against Corruption

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Open-ended Intergovernmental Working Group on Asset Recovery
Vienna, 6 and 7 June 2018
Item 1 (b) of the provisional agenda*
Organizational matters: adoption of the agenda and organization of work

Proposed workplan of the Open-ended Intergovernmental Working Group on Asset Recovery, 2018–2019

Note by the Secretariat

I. Introduction

1. In its resolution 1/4, the Conference of the States Parties to the United Nations Convention against Corruption established the Open-ended Intergovernmental Working Group on Asset Recovery, in accordance with article 63, paragraph 4, of the United Nations Convention against Corruption. In that resolution, the Conference decided that the Working Group was to advise and assist the Conference in the implementation of its mandate on the return of proceeds of corruption.

2. In paragraph 28 of its resolution 7/1, the Conference welcomed the outcome of the meetings of the Open-ended Intergovernmental Working Group on Asset Recovery, invited the Working Group to propose future agenda items and decided that the Working Group should continue its work by, inter alia:

(a) Continuing its efforts to gather information on and conduct enhanced analysis of best practices for the identification and compensation of all different types of victims in accordance with the Convention, including, as necessary, by soliciting information from States parties, facilitating exchanges among experts and organizing expert panels, while taking into consideration similar work undertaken at prior meetings of the Working Group, by expert panels and in discussions;

(b) Conducting analysis on third-party challenges and their impact on asset recovery under chapter V;

(c) Continuing to collect data on best practices, with a view to developing non-binding guidelines concerning the timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention;

(d) Conducting an analysis of how communication and coordination between various asset recovery practitioner networks could be improved, with a view to

* CAC/COSP/WG.2/2018/1.

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developing guidelines for the proactive and timely sharing of information, as mentioned in subparagraph (c) above.

3. Two meetings of the Working Group will take place in the period 2018–2019: on 6 and 7 June 2018, and 29 and 30 May 2019. Pursuant to the topics included in resolution 7/1, the Secretariat has prepared a workplan to structure the work of the Working Group until the end of 2019. The proposed workplan also takes into account synergies with other intergovernmental bodies, as requested by the Conference, in particular with the Implementation Review Group, which is overseeing the review of implementation of chapter V of the Convention during the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption.

4. In line with past practice, it was proposed that the agenda of the Working Group should include standing items that provide opportunities for discussion on the progress made in the implementation of mandates in the area of asset recovery; a forum for discussions on practical aspects of asset recovery, including challenges and good practices; and a forum for discussions on capacity-building and technical assistance. Furthermore, the thematic discussion would focus on specific areas in line with the mandates contained in resolution 7/1.

5. The proposed structure of the meetings of the Working Group until the end of 2019, as outlined below, has been prepared taking into account the available information and work carried out in the thematic areas to be covered in 2018 and 2019.

2018 meeting

Standing items

- Overview of progress made in the implementation of asset recovery mandates, including presentation of finalized knowledge products
- Forum for discussions on practical aspects of asset recovery, including challenges and good practices
- Forum for discussions on capacity-building and technical assistance

Thematic discussion

- Discussion on best practices, with a view to developing non-binding guidelines concerning the timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention
- Discussion on ways to improve communication and coordination between various asset recovery practitioner networks, with a view to developing guidelines for the proactive and timely sharing of information, as mentioned above

2019 meeting

Standing items

- Overview of progress made in the implementation of asset recovery mandates, including presentation of finalized knowledge products
- Forum for discussions on practical aspects of asset recovery, including challenges and good practices
- Forum for discussions on capacity-building and technical assistance

Thematic discussion

- Discussion on best practices for the identification and compensation of all different types of victims in accordance with the Convention, including, as necessary, by soliciting information from States parties, facilitating exchanges

among experts and organizing expert panels, while taking into consideration similar work undertaken at prior meetings of the Working Group, by expert panels and in discussions

- Discussion on third-party challenges and their impact on asset recovery under chapter V.

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Item 4 of the provisional agenda*
Thematic discussions

Timely sharing of information in accordance with article 56 of the United Nations Convention against Corruption and improving communication and coordination between various asset recovery practitioner networks

Background document prepared by the Secretariat

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption has repeatedly placed great emphasis on article 56 of the Convention (see its resolutions 3/3, 4/4 and 5/3). In its resolution 6/2, the Conference directed the Open-ended Intergovernmental Working Group on Asset Recovery to initiate the process of identifying best practices and developing guidelines for proactive and timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention.

2. The General Assembly, in its resolution 71/208, encouraged States parties to the Convention to use and promote informal channels of communication and the possibility of spontaneous exchange of information, as permitted by domestic law, in particular prior to making formal requests for mutual legal assistance, by, inter alia, designating officials or institutions, as appropriate, with technical expertise in international cooperation in asset recovery to assist their counterparts in effectively meeting requirements for mutual legal assistance.

3. The Open-ended Intergovernmental Working Group, at its eleventh meeting, held in Vienna on 24 and 25 August 2017, conducted a thematic discussion on proactive and timely sharing of information, in accordance with article 56 of the Convention. The Secretariat had prepared a document (CAC/COSP/WG.2/2017/2) containing background information based on both the replies of 10 States parties[1] to a note verbale containing a request for information on the issue and the finalized country reviews of 156 States parties with regard to article 46, paragraphs 4 and 5. During the thematic discussion at the eleventh meeting, panellists from Belgium, Switzerland and the Egmont Group informed the Group of their relevant experiences.

* CAC/COSP/WG.2/2018/1.

[1] Armenia, Czechia, Germany, Mongolia, Peru, Russian Federation, Switzerland, Ukraine, United States of America and Venezuela (Bolivarian Republic of).

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The Group concluded that the Secretariat, in consultation with the Working Group, should continue its efforts to identify best practices and develop guidelines for proactive and timely sharing of information. It also concluded that, further to the points for discussion proposed in document CAC/COSP/WG.2/2017/2, it could discuss how focal points from the various networks could be brought together and how communication and coordination between various networks could be improved.

4. In its resolution 7/1, the Conference urged States parties, without prejudice to domestic legal and administrative systems and procedures, to endeavour to take measures to permit them to forward information on proceeds of crime in order to facilitate recovery of assets through criminal, civil or administrative proceedings in accordance with article 56 and chapter IV of the Convention. It also decided that the Working Group should continue its work by, inter alia, continuing to collect data on best practices, with a view to developing non-binding guidelines concerning the timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention, and conducting an analysis of how communication and coordination between various asset recovery practitioner networks could be improved, with a view to developing guidelines for the proactive and timely sharing of information.

5. Asset recovery practitioner networks started to be established in the early 2000s and are aimed at combating money-laundering and other crimes. They have proved effective in helping countries to establish systems for obtaining information on the source, destination and ultimate beneficiary of proceeds of crime. They contribute to providing direct communication channels and therefore addressing practical challenges of asset recovery such as differences in legal systems or mutual legal assistance procedures and the complexity of multi-jurisdictional investigations. There are three types of networks relevant in that regard: those that mainly target asset confiscation and recovery (the asset recovery inter-agency networks); the Global Focal Point Network on Asset Recovery of the Stolen Asset Recovery (StAR) Initiative and the International Criminal Police Organization (INTERPOL), which has a global membership and focuses on asset recovery; and those networks that have a broader law enforcement mandate but are also used by practitioners in the context of asset recovery.

6. The present document is aimed at providing a basis for the discussion on non-binding guidelines concerning the timely sharing of information, including the improvement of communication and coordination between various asset recovery practitioner networks. Firstly, it provides an update of the information on spontaneous sharing of information prepared in 2017 (CAC/COSP/WG.2/2017/2 and CAC/COSP/2017/8). The update is based on replies received from an additional seven States,[2] to the note verbale sent on 2 May 2017, seven additional country reviews on article 46, paragraph, 4 that had been completed since the last meeting of the Working Group and, for the first time, six country reviews on article 56 that had been completed at the date of reporting. Secondly, an overview of asset recovery practitioner networks is given, with a view to determining the role of focal points in information exchange and how those networks currently ensure communication and coordination. Lastly, the document contains draft, non-binding guidelines on both topics for consideration by the Working Group.

[2] Bahrain, Belgium, Denmark, Myanmar, Paraguay, Philippines and the Sudan. As at the date of reporting, 14 of the replies have been published on the web page of the eleventh meeting of the Working Group (www.unodc.org/unodc/en/corruption/WG-AssetRecovery/session11.html).

II. Updated information on article 46, paragraphs 4 and 5, and article 56

7. Article 56 of the Convention against Corruption reads as follows:

> Without prejudice to its domestic law, each State party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State party without prior request, when it considers that the disclosure of such information might assist the receiving State party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State party under this chapter of the Convention.

8. In addition to article 56, spontaneous transmission of information is addressed in article 46 (mutual legal assistance), paragraphs 4 and 5, and article 48 (law enforcement cooperation) of the Convention. A number of further global and regional treaties also address the issue. These include: United Nations Convention against Transnational Organized Crime (article 18, paragraphs 4 and 5); the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters; article 20 of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism; the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders; article 29 of the Arab Anti-Corruption Convention; article 4, paragraph 1 of the Agreement on Cooperation among Member States of the Commonwealth of Independent States in Combating Crime; and article 8 of the Convention of the Portuguese-Speaking Community on Mutual Legal Assistance. Article 78 of directive No. 02/2015/CM/UEMOA on the fight against money-laundering and the financing of terrorism in the States members of the West African Economic and Monetary Union contains regulations on spontaneous information-sharing by financial intelligence units. In the reviews and in the replies to the note verbale, many countries referred to their regional instruments and to bilateral treaties, agreements, arrangements or memorandums of understanding that contained provisions on spontaneous disclosure.

9. The information gathered from the additional replies to the note verbale and the reviews finalized since the last meeting of the Working Group generally confirmed the analysis made in 2017. Further, for the time being, no significant difference could be observed between the implementation of article 46, paragraphs 4 and 5, and article 56 as reflected in the country review reports. However, the 163 country reports on article 46, paragraphs 4 and 5, covered the majority of States parties from all regions, while the six reports on article 56 (three States from the Group of African States, two from the Group of Asia-Pacific States and one from the Group of Western European and other States) did not allow final conclusions to be drawn at the time of reporting.

10. The new information confirmed that spontaneous disclosure, in the same way as mutual legal assistance in general, did not generally require a treaty basis. Nearly all countries could spontaneously disclose information in the absence of a treaty, operating on the basis of reciprocity or case-by-case arrangements. Many countries had information-sharing agreements, arrangements or memorandums of understanding on the exchange of information, in particular with their neighbouring countries. Some countries required a treaty basis or foresaw that the spontaneous transmission of information without a treaty basis required specific authorization. However, those remained rare exceptions and no such requirements were reported in the new information. A number of States, including one providing the new information, indicated that they could use the Convention as a legal basis for spontaneous disclosure. Although treaties and arrangements were not necessary for

most countries, they facilitate and promote the spontaneous disclosure of information by providing legal clarity about its permissibility. The country reviews have generally not led to specific recommendations to conclude such agreements, because the Convention does not set them out as an obligation, but policy studies have recommended agreements as a practical measure to strengthen spontaneous disclosure.[3] The treaty basis for spontaneous information-sharing is addressed below in the draft, non-binding guideline 1, contained in section IV below.

11. Approximately 20 per cent of countries had enacted specific legislation on spontaneous disclosure. The majority of countries had introduced those provisions into their general laws, such as mutual legal assistance laws or criminal procedure codes, thereby enabling the judicial authorities to transmit information. The countries that had done so included, in particular, a number of countries from the Group of Western European and other States and the Group of Eastern European States. In addition, three countries from the Group of African States had included provisions on spontaneous disclosure of information in their anti-corruption laws, and a number of countries from all regional groups had included such provisions in the laws against money-laundering, thus focusing on information-sharing by financial intelligence units. That was a reflection of reforms aimed at implementing anti-money-laundering standards (in particular recommendation 40 of the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation of the Financial Action Task Force). Further, the States members of the West African Economic and Monetary Union included spontaneous information-sharing more often in their money-laundering legislation than others because the above-mentioned directive No. 02/2015/CM/UEMOA, on the fight against money-laundering and the financing of terrorism, contains a provision on spontaneous information-sharing by financial intelligence units and because the directives of the Union are generally implemented through legislation.

12. The vast majority of countries did not have legislation on spontaneous disclosure. However, that was only considered an obstacle in two countries, of which one was in the process of addressing the issue in draft legislation. A number of countries considered that, even if not explicitly allowed, spontaneous transmission of information was possible to the extent that it was not prohibited. Nevertheless, a number of country reports contained recommendations on enacting relevant legislation. The analysis suggested that several countries considered desirable a certain formalization of procedures through national rules, to provide for greater clarity at the domestic level. Some countries replaced or complemented a legislative regulation with guidelines, circulars or protocols. In some countries, legislation was also considered necessary for granting authority to institutions to share information and overcome confidentiality requirements. With regard to regulations supporting spontaneous information-sharing, see draft, non-binding guideline 2, in section IV below.

13. The countries with legislation in place provided for different requirements and conditions for the spontaneous sharing of information. Some countries included only relatively simple conditions, or those already contained in article 46 of the Convention, such as the speciality principle (the information may not be used for other purposes than the one giving rise to the submission or the law governing the submission), general confidentiality requirements, a reservation for national security reasons or the condition that the country could only share information without prejudice to its own investigations, prosecutions or judicial proceedings. However, some national laws contained very strict requirements, for example, data protection and deletion requirements that went beyond confidentiality requirements, minimum penalty requirements (up to five years of imprisonment) or requirements that the information otherwise related to offences of a certain gravity, for example, those qualifying for extradition. Some countries also required a treaty basis or had strict

[3] See, for example, Kevin M. Stephenson and others, *Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action* (Washington, D.C., World Bank, 2011), p. 22.

procedural requirements, for example, a decision at the ministerial level. In the new information, no additional or particularly strict requirements were reported.

14. With regard to the transmitting institution, States parties generally permitted the competent authorities from which the information originated to spontaneously transmit it abroad. In total, only two countries (and none of the countries providing the new information) had designated a specific authority to transmit information generated by all competent authorities. Often, the information originates in financial intelligence units, but it could also originate in any law enforcement or judicial authority involved in the investigation or adjudication of corruption cases. A few countries also allowed for diagonal transmission, i.e. the transmission to an authority that was not the direct counterpart of the issuing institution. Informal channels of communication, such as officials posted in overseas missions and appointed liaison officers, as well as ad hoc arrangements, were also used widely. Draft, non-binding guideline 3, contained in section IV below, addresses legal conditions and institutional requirements for spontaneous information-sharing.

15. With regard to the role of receiving jurisdictions, article 46, paragraph 5, contains the obligation to comply with a request that information remain confidential, even temporarily, or with restrictions on its use. Most countries comply with that obligation, although recommendations were made to some States parties, including one State party providing the new information, to ensure compliance with such confidentiality requests. To make spontaneous disclosure effective and successful, active follow-up by the receiving State is also important. In order to allow for successful follow-up to the information received, it has been recommended that recipients of spontaneously disclosed information contact the authority of origin to find out about the foreign case, ensure that assets remain frozen and discuss the next steps to be taken. Further, it is important that the receiving country open an investigation, in the course of which it prepares a mutual legal assistance request to formalize the transmission of information and complement the information received. In many cases, a request for (continued) freezing or seizure of assets would also be permissible.[4] Draft, non-binding guideline 4, contained in section IV below, addresses the role of receiving jurisdictions.

16. Spontaneous disclosures with regard to administrative freezing cases are an important special case. Administrative freezes were adopted and implemented widely for the first time in the context of the Arab Spring. Canada, Switzerland, the United States of America and countries of the European Union took measures to administratively freeze assets between 2010 and June 2012. To make progress in asset recovery cases, it is important that the requesting jurisdictions are aware of the freezing orders and the location and amount of frozen assets. Therefore, the jurisdictions that had administratively frozen assets used spontaneous disclosures to provide information on those assets. Others went even further and provided capacity-building to practitioners in foreign jurisdictions so that they could follow up on such measures, for example, through the placement of regional advisers.[5] At the eleventh meeting of the Working Group, the panellist from Belgium explained that in the case involving the former President of Tunisia, Ben Ali, domestic legislation had not yet been enacted to support the implementation of Council of the European Union decision 2011/72/CFSP of 31 January 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Tunisia. However, Belgium had opened a national investigation into money-laundering and, using the Convention as a basis, had swiftly frozen and seized relevant assets, set up a system for proactive information exchange and established direct contact with Tunisia to assist with the mutual legal assistance request. Following that, a platform for

[4] Jean-Pierre Brun and others, *Asset Recovery Handbook: A Guide for Practitioners* (Washington, D.C., World Bank, 2011), p. 137, and Larissa Gray and others, *Few and Far: The Hard Facts on Stolen Asset Recovery* (Washington, D.C., World Bank, 2014), p. 3.

[5] Gray and others, *Few and Far*, p. 42.

operational information-sharing in asset-tracing investigations related to Mr. Ali and his family members was set up on the I-24/7 secure network of INTERPOL.

17. Another important special case is the spontaneous disclosure of information on ongoing or concluded settlements to resolve foreign bribery cases. A study by the StAR Initiative [6] contained a number of recommendations, including that the authorities in jurisdictions pursuing settlements should spontaneously inform affected jurisdictions that a negotiation toward a settlement was taking place, and should proactively share information on concluded settlements with other potentially affected countries. Countries whose officials were allegedly bribed should step up their own efforts to mount effective investigations and prosecutions against bribe-givers and takers. At its eleventh meeting, the Working Group re-emphasized the need for States parties to make information on settlements and other alternative mechanisms available, including, where appropriate, through public means (CAC/COSP/WG.2/2017/4, para. 69). Spontaneous information-sharing in administrative freezing cases and in settlement procedures are contained in draft, non-binding guideline 5, contained in section IV below.

III. Existing practitioner networks and considerations on steps to improve communication and coordination between various asset recovery practitioner networks

18. The spontaneous transmission of information requires a high level of trust and confidence among the counterparts; law enforcement networks and secure platforms play an essential role in that regard. As mentioned above, three types of networks are relevant: the asset recovery inter-agency networks; the StAR Initiative/INTERPOL Global Focal Point Network on Asset Recovery; and those networks that have a broader law enforcement mandate but are also used by practitioners in the context of asset recovery.

19. A global directory of asset recovery networks developed by the StAR Initiative will be made available to the Working Group in conference room paper CAC/COSP/WG.2/2018/CRP.2.

20. Draft, non-binding guidelines 6 and 7, contained in section IV below, address the effectiveness of networks and the communication and coordination between them.

A. Asset recovery inter-agency networks

21. Asset recovery inter-agency networks provide practitioners in the field of asset confiscation and recovery an opportunity to address challenges in international cooperation. The Camden Asset Recovery Inter-Agency Network was the first of these networks, and others established later have the same main objective, namely the identification, seizure, freezing, confiscation and recovery of assets pertaining to all crimes. They all have common methodologies and objectives.

22. The networks are placing increased focus on asset confiscation and the return of proceeds of crime. Although most countries are successful in prosecuting corruption cases, instances of actual asset confiscation and return are rare. With the increased focus on coordination and the exchange of information in a timely and informal manner, there has been a significant increase in multi-jurisdictional coordination efforts aimed at confiscation.

23. The networks promote international cooperation through informal channels of communication between requesting and requested States. In that respect, they bring together relevant competent authorities for all crimes, including practitioners

[6] Jacinta Anyango Oduor and others, *Left out of the Bargain: Settlements in Foreign Bribery Cases and Implications for Asset Recovery* (Washington, D.C., World Bank, 2014); see also CAC/COSP/WG.2/2016/2.

involved in asset recovery and the fight against corruption prior to making formal requests for mutual legal assistance. By building confidence and establishing trust between practitioners, a foundation is created for smooth international cooperation. This has already resulted in an increased number of requests for information aimed at identifying, locating, seizing and confiscating proceeds of crime in other countries and across regions. To that end, it is usual for two officials or institutions from each jurisdiction with technical expertise in asset confiscation to be designated as contact points. Typically, one of the contact points will be from an agency involved in asset tracing and forfeiture or have direct access to practitioners in that area, such as law enforcement agencies and prosecution authorities. Contact points promote the exchange of information and good practices relating to asset confiscation and recovery, including mutual legal assistance, although mutual legal assistance requests must be submitted through the appropriate formal legal channels.

24. A shared objective of the asset recovery inter-agency networks is to perform a knowledge-building function, through training on all aspects of tackling the proceeds of crime. Often, regional networks use their meetings to share experiences on different issues. These specialized gatherings of experts are useful in identifying good practices and formulating recommendations for both policymakers and practitioners in asset recovery.

25. Within each network, the contact points work together by holding in-person meetings, using an electronic platform or communicating through the secretariat. Most networks meet at least once a year, but may on occasion meet more often. In order to enhance secure communication and the generation of statistics, the networks develop secure platforms accessible only to their members. This is for example, the case with the Camden Asset Recovery Inter-Agency Network, the Asset Recovery Inter-Agency Network for Southern Africa, the Asset Recovery Inter-Agency Network for Asia and the Pacific, and the Asset Recovery Network of the Financial Action Task Force of Latin America (GAFILAT). The Asset Recovery Network of GAFILAT has an electronic platform located in the financial intelligence unit of Costa Rica, while the European Union Agency for Law Enforcement Cooperation (Europol) provides secure message facilities through its Secure Information Exchange Network Application. The secretariats of the networks also facilitate communication among contact points. The networks generally have a president and a steering group that oversee the activities of the network, external communication and the preparation of the periodic meetings.

List of asset recovery inter-agency networks

26. The first and oldest asset recovery inter-agency network is the Camden Asset Recovery Inter-Agency Network. It was established in 2004 and its members are mostly countries in Europe, although Australia, Canada and the United States are also members. Its secretariat is located in Europol in the Hague, the Netherlands. The network is linked to similar asset recovery networks in Southern Africa, East Africa, West Africa, Latin America and the Caribbean and the Asia-Pacific region that were established with the support of the United Nations Office on Drugs and Crime (UNODC) and other technical assistance providers.

27. The Asset Recovery Inter-Agency Network for Southern Africa was established in 2009. Its secretariat is hosted by the Asset Forfeiture Unit of South Africa, which is part of the Office of the National Director of Public Prosecutions.

28. The Asset Recovery Network of GAFILAT was established in 2010. Its secretariat is part of the GAFILAT secretariat.

29. The Asset Recovery Inter-Agency Network for Asia and the Pacific was established in 2013. The Supreme Prosecutor's Office of the Republic of Korea houses and supports its secretariat.

30. The Asset Recovery Inter-Agency Network for Eastern Africa was launched in 2013. Its secretariat is supported by the East African Association of Anti-Corruption Authorities.

31. The Asset Recovery Inter-Agency network for West Africa was launched in 2014. The Judicial Agency of the Treasury of Côte d'Ivoire serves as its permanent secretariat.

32. The Asset Recovery Inter-Agency Network for the Caribbean was launched in 2017. Its secretariat is in the Regional Security System Asset Recovery Unit in Bridgetown.

Cooperation between the regional networks

33. Because cases tend to require assistance across geographical regions, there has been a greater move towards establishing contacts between networks. This helps to avoid duplication, increases the geographical reach of the regional networks and enables the contact points to engage across the globe when cases involve countries outside their own region.

34. In order to strengthen ties between the networks, the Camden Asset Recovery Inter-Agency Network secretariat and Europol host and fund annual meetings for representatives of all regional asset recovery inter-agency networks for peer training, exchange of knowledge, information-sharing and networking. Attending the plenary meetings and facilitating training are seen as other ways to strengthen links between networks. Some of the networks allow other regional networks access to their online platforms. For example, the Asset Recovery Inter-Agency Network for Southern Africa grants access to its communication platform to contact points from other regional networks. The Asset Recovery Inter-Agency Network for the Caribbean will launch its website in 2019, which will also be accessible to other networks.

35. Although the regional networks respect the official languages of their members, many of them recognize the need to have in place one operational language to promote more efficient and spontaneous communication between contact points. For instance, contact points in both the Camden Asset Recovery Inter-Agency Network and the Asset Recovery Inter-Agency Network for Southern Africa are required to speak English as the operational language to facilitate requests from foreign countries. At the same time, interpretation may be provided in annual general meetings or for technical assistance activities provided by the Asset Recovery Inter-Agency Network for Southern Africa.

36. There is also an established practice of cooperation, whereby contact points are connected through their secretariats. The secretariats facilitate initial contact with other regional networks within the international legal frameworks available. Such contacts have been instrumental in advancing transnational cases. For example, in one case, contacts in Switzerland were established by the Asset Recovery Inter-Agency Network for Southern Africa through the Camden Asset Recovery Inter-Agency Network, to ask law enforcement authorities in Switzerland to freeze money held in Swiss banks.

B. Global Focal Point Network on Asset Recovery of the Stolen Asset Recovery (StAR) Initiative and the International Criminal Police Organization

37. Launched in 2009, the INTERPOL/StAR Initiative Global Focal Point Network on Asset Recovery was established with the aim of assisting practitioners to overcome operational barriers associated with international asset recovery by providing a secure information exchange platform for criminal asset recovery. Authorized law enforcement officers from each member country (INTERPOL member countries) are designated as focal points to respond to the immediate needs for assistance from any other member country in asset recovery. The Network currently has 234 dedicated

focal points, who are nominated by national law enforcement agencies, judicial and administrative authorities and represent 133 countries. The Global Focal Point Network on Asset Recovery also provides operational support and technical assistance to its members, as well as meetings, conferences and training workshops organized in various regions of the world. The Network is hosted by the INTERPOL general secretariat.

C. Other law enforcement networks

38. There are a number of networks that involve asset recovery as part of a broader law enforcement mandate. The below list is meant to be illustrative rather than exhaustive.

39. The Egmont Group of Financial Intelligence Units is a body of 155 financial intelligence units that was established in 1995. The Egmont Group provides a platform for the spontaneous and secure exchange of expertise and financial intelligence to combat money-laundering and the financing of terrorism. Its members also cooperate through regular meetings. Within the Group, the financial intelligence units are provided with specific guidance on communicating and cooperating with other financial intelligence units around the world. All interested financial intelligence units globally are eligible for membership, provided they meet specified criteria.

40. The European Judicial Network is a network of contact points created in 1998 for the facilitation of cooperation and the establishment of direct contacts between the judicial authorities in the States members of the European Union. National contact points are nominated by each member State from among central authorities in charge of international judicial cooperation, judicial authorities and other competent authorities with specific responsibilities in the field of international judicial cooperation. The website of the Network offers e-tools required for the functioning of the Network and for the facilitation of cooperation by contact points, prosecutors, judges and other legal professionals. The Network is composed of more than 300 national contact points from European Union member States, the European Commission and its secretariat, based in the Hague.

41. The Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition of the Organization of American States (OAS) was established in 2000 in order to increase and improve the exchange of information among OAS member States in the area of mutual assistance in criminal matters. The Network has a secure electronic communications system to facilitate the exchange of information between authorities that deal with issues of mutual assistance in criminal matters and extradition.

42. The Ibero-American Legal Assistance Network is a network for cooperation in civil and criminal matters that was established in 2004. Its members comprise 22 Ibero-American countries and the Supreme Court of Puerto Rico. It has two official languages: Spanish and Portuguese. The contact points of IberRed are from the ministries of justice, central authorities, prosecution offices and judicial branches of its member countries.

43. Judicial regional platforms have been established by UNODC to strengthen international cooperation in criminal matters in the regions of the Sahel and the Indian Ocean. Their main focus is to prevent and combat forms of serious crime, such as organized crime, corruption, drug trafficking and terrorism. The platforms are international cooperation networks of focal points, who facilitate extradition and mutual legal assistance in criminal matters procedures with the States members of their platforms.

44. The Commonwealth Network of Contact Persons was established in order to facilitate international cooperation in criminal cases between Commonwealth member States, including on mutual legal assistance and extradition, and to provide

relevant legal and practical information. The Network comprises at least one contact person from each jurisdiction in the Commonwealth.

D. United Nations Office on Drugs and Crime online directory of competent national authorities

45. While networks generally focus on informal information exchange, mostly before formal mutual legal assistance requests are submitted, information exchange remains crucial throughout the process. The information exchanged in the pre-mutual legal assistance stage is not yet evidence and, to convert it into evidence, more formal mechanisms are required. The online directory of competent national authorities, including central authorities for mutual legal assistance and asset recovery focal points, is available at www.unodc.org/compauth_uncac/en/index.html.

46. The Secretariat continued to update the online directory of competent national authorities. As at 27 March 2018, the directory contained the information on:

(a) Central authorities for mutual legal assistance in 129 States parties;

(b) Prevention authorities in 112 States parties;

(c) Asset recovery focal points in 80 States parties;

(d) Central authorities on extradition in 23 States parties;

(e) Focal points for international cooperation in the use of civil and administrative proceedings in 32 States parties.

IV. Towards non-binding guidelines on the timely sharing of information in accordance with article 56 of the Convention and improving communication and coordination between various asset recovery practitioner networks

47. The Working Group may wish to use the following draft guidelines as a basis for the development of non-binding guidelines on the timely sharing of information and improved communication and coordination between asset recovery practitioner networks.

48. The Working Group may also wish to make recommendations on the methodology that should be adopted for finalizing the guidelines and presenting them to the Conference of the States Parties to the United Nations Convention against Corruption at its ninth session, to be held in November 2019.

Draft guideline 1

States should be able to spontaneously transmit information on the basis of general information-sharing arrangements, through networks, or on a case-by-case basis

1. States should be able to transmit information spontaneously without the need for a treaty basis and, if possible, without the need for an assurance of reciprocity.

2. Countries should be able to share information, for example, based on existing general information-sharing arrangements or networks, or on a case-by-case basis. In cases where States can apply the Convention directly, it should also be possible to share information spontaneously, using article 56 of the Convention as a basis.

3. States should consider including the spontaneous sharing of information in new bilateral and regional treaties on mutual legal assistance or concluding new information-sharing arrangements.

Draft guideline 2

States should establish clear domestic rules about the conditions and avenues for sharing information, and the types of information that can be shared

1. Such regulations should include the designation of the authority or authorities that are allowed to share information, and explicit authorization for responsible officials to disclose relevant types of information when the conditions are met.

2. It is not considered necessary to include these rules in legislation, although on the basis of the information available to the Secretariat, approximately one fifth of States parties have done so (general legislation on criminal procedure or mutual legal assistance, or laws on combating corruption or money-laundering).

Draft guideline 3

Regulations should be conducive to the sharing of information

In line with article 46, paragraphs 4 and 5, and article 56 of the Convention, States parties should enact regulations that are conducive to the sharing of information and that allow for a swift reaction when relevant information appears. States parties should avoid requirements that are stricter than those of regular mutual legal assistance procedures, including high minimum penalty thresholds or data protection requirements that go beyond general confidentiality requirements or that are considerably stricter than international standards. Also, restrictive procedural rules, for example, the requirement of a ministerial decision, should be avoided.

Draft guideline 4

Receiving countries should follow up actively on the information transmitted

1. Receiving countries should comply with any requests for received information to remain confidential, even temporarily, or with restrictions on its use.

2. Receiving countries should reply actively and collaboratively on the information provided. Actions to be taken by such countries could include:

(a) Contacting the transmitting jurisdiction for informal discussions on further steps;

(b) Opening an investigation, if that has not yet been done and if the elements are sufficient under its domestic law;

(c) Preparing the relevant mutual legal assistance requests to complement the information and request (continued) seizure or freezing orders.

Draft guideline 5

Spontaneous information-sharing should in general be considered favourably in cases of administrative freezing and settlement procedures

1. States that can administratively freeze assets should consider spontaneously sharing information, with the country of origin, on assets that were administratively frozen and should provide, if appropriate, assistance in the ensuing mutual legal assistance procedures.

2. States that pursue settlement procedures should consider spontaneously transmitting information to other affected countries on the basic facts of the case and proactively sharing information on concluded settlements with other potentially affected countries.

Draft guideline 6

States should endeavour to nominate effective contact points for practitioner networks

1. Each contact point should be aware of relevant domestic procedures and be in a position to promptly assist with advice in line with the established practice in his/her legal system and the mandate of his/her institution.

2. Language requirements should be taken into account.

3. A simple and transparent procedure for nominating contact points should be established, taking into account the need for continuity in the network's meetings and other activities. Where there is turnover, institutions should be encouraged to replace contact points promptly.

4. Internal guidelines describing the type of assistance that can be rendered by the contact points can be helpful.

Draft guideline 7

States should invest in the institutional support and resources for networks

1. In order to ensure sustainability and consistency of work done by networks, as well as to improve the communication and coordination between them, the allocation of adequate resources is key.

2. For members of the network, this includes advance planning and allocating sufficient time for the focal points to fulfil their responsibilities. Resources for participation in network meetings should be provided for, in particular for coordination with other networks.

3. Networks also need resources for, inter alia, supporting the secretariat and secure communication platforms and hosting annual meetings and steering group meetings.

4. Donors and technical assistance providers should consider providing assistance to networks so that they can carry out their activities.

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United Nations CAC/COSP/WG.2/2018/6

Conference of the States Parties to the United Nations Convention against Corruption

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Report on the meeting of the Open-ended Intergovernmental Working Group on Asset Recovery held in Vienna on 6 and 7 June 2018*

I. Introduction

1. In its resolutions 1/4, 2/3, 3/3, 4/4, 5/3, 6/2, 6/3 and 7/1, the Conference of the States Parties to the United Nations Convention against Corruption established and decided to continue the work of the Open-ended Intergovernmental Working Group on Asset Recovery.

2. In its resolution 7/1, the Conference welcomed the outcome of the meetings of the Working Group and invited it to propose future agenda items. Also in that resolution, the Conference decided that the Working Group should continue its work by, inter alia:

(a) Continuing its efforts to gather information on and conduct enhanced analysis of best practices for the identification and compensation of all different types of victims in accordance with the Convention against Corruption, including, as necessary, by soliciting information from States parties, facilitating exchanges among experts and organizing expert panels, while taking into consideration similar work undertaken at prior meetings of the Working Group, by expert panels and in discussions;

(b) Conducting analysis on third-party challenges and their impact on asset recovery under chapter V of the Convention;

(c) Continuing to collect data on best practices, with a view to developing non-binding guidelines concerning the timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention;

(d) Conducting an analysis of how communication and coordination between various asset recovery practitioner networks could be improved, with a view to developing guidelines for the proactive and timely sharing of information, as mentioned in subparagraph (c) above.

* The present report was submitted after the deadline as a result of consultations with Member States.

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II. Organization of the meeting

A. Opening of the meeting

3. The Open-ended Intergovernmental Working Group on Asset Recovery held its twelfth meeting in Vienna on 6 and 7 June 2018. The meeting included two meetings that were held jointly with the Implementation Review Group, on 6 June.

4. The twelfth meeting of the Working Group was chaired by Vivian N. R. Okeke (Nigeria) and Ignacio Baylina Ruiz (Spain).

5. Delegations expressed their deepest sympathy to the victims of the volcanic eruption in Guatemala and extended their condolences to the people of Guatemala.

B. Adoption of the agenda and organization of work

6. On 6 June 2018, the Working Group adopted the following agenda:

1. Organizational matters:
   (a) Opening of the meeting;
   (b) Adoption of the agenda and organization of work.
2. Overview of progress made in the implementation of asset recovery mandates.
3. Forum for advancing practical aspects of asset recovery, including challenges and good practices.
4. Thematic discussions:
   (a) Timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention: collection of data with a view to developing non-binding guidelines;
   (b) Improving communication and coordination between various asset recovery practitioner networks, with a view to developing guidelines for the proactive and timely sharing of information.
5. Forum for discussions on capacity-building and technical assistance.
6. Adoption of the report.

C. Attendance

7. The following States parties to the Convention were represented at the meeting of the Working Group: Algeria, Angola, Argentina, Austria, Azerbaijan, Bangladesh, Belgium, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, El Salvador, Eswatini, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lebanon, Lesotho, Libya, Liechtenstein, Malawi, Malaysia, Malta, Mauritius, Mexico, Mongolia, Morocco, Namibia, Nepal, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Switzerland, Tajikistan, Thailand, Togo, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zimbabwe.

8. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

9. The following United Nations programmes and funds, institutes of the United Nations crime prevention and criminal justice programme network and specialized agencies of the United Nations system were represented by observers: Basel Institute of Governance, United Nations Interregional Crime and Justice Research Institute, International Labour Office and World Bank.

10. The following intergovernmental organizations were represented by observers: Cooperation Council for the Arab States of the Gulf, European Union Agency for Law Enforcement Cooperation (Europol), International Anti-Corruption Academy and Organization for Security and Cooperation in Europe.

11. The Sovereign Military Order of Malta, an entity maintaining a permanent observer office at Headquarters, was represented at the meeting.

III. Overview of progress made in the implementation of asset recovery mandates

12. A representative of the secretariat provided an overview of the progress made in the implementation of asset recovery mandates. It was noted that, in line with its mandate, the Group focused on three main objectives: (a) developing cumulative knowledge; (b) building confidence and trust between requesting and requested States; and (c) technical assistance, training and capacity-building. With regard to the development of cumulative knowledge, the United Nations Office on Drugs and Crime (UNODC) had continued the development of its Tools and Resources for Anti-Corruption Knowledge (TRACK) portal, specifically the portal's legal library. UNODC had also contributed to the Lausanne process facilitated by the Government of Switzerland, the International Centre for Asset Recovery of the Basel Institute on Governance, and the Stolen Asset Recovery (StAR) Initiative, including work on a step-by-step guide to support the practical application and implementation of the Lausanne guidelines for the efficient recovery of stolen assets, and a corresponding online tool. Moreover, as part of the Global Forum on Asset Recovery, the StAR Initiative had been assisting national authorities in creating beneficial ownership guides. The representative of the secretariat informed the Working Group that the upgraded Mutual Legal Assistance Request Writer Tool had been made available online.

13. With regard to building trust between requesting and requested States, it was highlighted that UNODC and the StAR Initiative had continued their active support for regional networks engaged in confiscation and asset recovery. UNODC and the StAR Initiative had also continued to engage in advocacy in a number of international forums to promote the development of approaches and measures creating an international policy and legal framework conducive to the recovery and return of stolen assets. Such forums included the International Association of Anti-Corruption Authorities, the Egmont Group, the Anti-Corruption and Transparency Working Group of Asia-Pacific Economic Cooperation (APEC), the International Criminal Police Organization (INTERPOL), the European Union and Eurojust, the Group of Seven and the Group of Twenty anti-corruption working groups and the World Economic Forum, in particular its Partnering against Corruption Initiative.

14. The Working Group noted that the secretariat had prepared a proposed workplan covering the activities of the Working Group for the biennium 2018–2019 (CAC/COSP/WG.2/2018/4).

15. The representative of Egypt, speaking on behalf of the Group of African States, commended the high-level meeting held in New York on 23 May to mark the fifteenth anniversary of the adoption of the United Nations Convention against Corruption, and highlighted the fundamental importance of asset recovery in that context. He informed the Group that 2018 had been designated as African

Anti-Corruption Year, with the theme "Winning the fight against corruption: a sustainable path to Africa's transformation", and that 11 July, the date on which the African Union Convention on Preventing and Combating Corruption had been adopted in 2003, had been designated as the annual African Anti-Corruption Day. He recalled Conference of the States Parties resolution 6/2, in which the Conference had directed the Working Group to develop guidelines for proactive and timely sharing of information pertaining to asset recovery, and Conference resolution 7/1, on the strengthening of mutual legal assistance for international cooperation and asset recovery. He urged States parties to eliminate safe havens and lift bank secrecy provisions to facilitate asset recovery to the countries of origin in the spirit of the Convention. In addition, he highlighted the challenges faced by States in asset recovery and international cooperation, such as a lack of political will, complexity of and differences in legal systems and lack of familiarity with procedural requirements. He encouraged States parties to work together, with a view to promoting asset recovery.

16. The representative of the European Union noted that chapter V of the Convention, which was under review during the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, covered issues key to tackling corruption and preventing its proceeds from being re-invested in the licit economy or used for further acts of corruption. He referred to relevant European Union legislation that had been adopted or was about to be adopted, including a directive on confiscation, a regulation on the mutual recognition of freezing and confiscation orders and the fifth European Union anti-money-laundering directive. He highlighted the European Union's continuous support for international cooperation in asset recovery, in particular its support to the Camden Asset Recovery Inter-Agency Network and its affiliated networks, as well as its support to the achievement of the Sustainable Development Goals, in particular target 16.4 thereof (by 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime), in the context of the Addis Ababa Action Agenda of the Third International Conference on Financing for Development. He emphasized that returned assets must be used and managed according to the principles of transparency and accountability and in a manner conducive to promoting sustainable development.

17. Speakers underscored that the working group was a vital forum for promoting dialogue on asset recovery, along with other regional and international bodies and mechanisms, including the StAR Initiative. They welcomed the involvement of UNODC in the Global Forum on Asset Recovery, which had been held in Washington, D.C., in December 2017, hosted by both the United Kingdom and the United States. With regard to the workplan for future work of the Group, one speaker suggested that the topic of third-party challenges should include the issue of contingency fees for attorneys retained by requesting States, as claims by attorneys had the potential to protract proceedings and create competing obligations and ambiguity for the requested States. That speaker also noted that civil and administrative cooperation had been mentioned in the note by the Secretariat on progress made in the implementation of asset recovery mandates (CAC/COSP/WG.2/2018/2) and stressed that it was an issue that had already been addressed by both the Conference and the Working Group on International Cooperation.

18. With regard to UNODC tools and resources, one speaker was concerned that the TRACK portal and the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC) were incompatible and suggested that a way to connect the two systems should be identified.

19. A number of speakers emphasized the progress made in their national asset recovery efforts and presented information on recent national legal and institutional reforms and initiatives with regard to enhancing their countries' capacity to effectively cooperate in asset recovery cases. Reforms to ensure the full implementation of chapter V of the Convention included the adoption of

comprehensive domestic legislation, including specialized legislation on mutual legal assistance, asset recovery and money-laundering; the development of country-specific asset recovery guides; the establishment of centralized and specialized agencies and the appointment of specialized personnel; the management and disposal of seized and confiscated assets; and the inclusion of asset recovery clauses in mutual legal assistance agreements. Several speakers cited examples of successful asset recovery in transnational corruption cases. One speaker gave a presentation on his country's national agency for finding, tracing and managing assets derived from corruption and other crimes.

20. Several speakers referred to Conference resolution 7/2, on preventing and combating corruption in all its forms more effectively, including when it involves vast quantities of assets, and called on States to intensify efforts and share experiences and good practices.

21. One speaker referred to the Lima commitment on democratic governance against corruption, adopted at the Eighth Summit of the Americas, which included references to asset recovery measures.

22. Some speakers reported on practical challenges resulting from a lack of cooperation, a lack of exchange of information or a lack of political will. Secrecy, different evidentiary standards and differences in legal procedures were also mentioned as obstacles to effective asset recovery. Some speakers also referred to the necessity of recovering assets from financial centres and tax havens, and existing difficulties in that regard.

23. In order to overcome such challenges, speakers suggested that the secretariat should continue updating the directory of competent national authorities, including the timely updating of the information on asset recovery focal points, and consider developing tools, including a mobile application, to facilitate the timely sharing of information among competent authorities. It was also suggested that the meetings of the Working Group should be used as an opportunity to hold bilateral meetings between requesting and requested States, with a view to facilitating consultations on cases. One speaker suggested that, while chapter V of the Convention provided a good basis for asset recovery, there was a need to refine and elaborate on its provisions, for example with regard to methods for tracing assets or executing foreign orders. It was stated that non-binding guidelines in that regard could be valuable.

24. Some speakers underlined the right of States to dispose of recovered assets as they considered appropriate, without it being subject to any conditions and in accordance with the Convention in terms of respect of sovereignty and non-interference in domestic affairs.

IV. Forum for advancing practical aspects of asset recovery, including challenges and good practices

25. A representative of the Secretariat briefed the Working Group on the outcome of the international expert group meeting on beneficial ownership transparency, held in Vienna on 3 and 4 October 2017 (CAC/COSP/IRG/2018/7). The meeting had been organized with financial support from the Russian Federation, pursuant to the mandate contained in Conference resolution 6/5, entitled "St. Petersburg statement on promoting public-private partnership in the prevention of and fight against corruption". He recalled that, in that resolution, the Conference had called upon States parties to strengthen the involvement of the private sector in the fight against corruption and had invited them, inter alia, to enhance transparency, including on beneficial ownership of private entities. The Working Group reviewed, in the light of recent developments, the conclusions and recommendations contained in the study *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It*, published by the StAR Initiative in 2011. The representative of

the secretariat stated that a workshop on the use of attorney-client privilege and/or legal professional privilege would be held in the second half of 2018.

26. In the ensuing discussion, speakers recalled that the return of stolen assets was a fundamental principle of the Convention and noted its positive impact on international cooperation in the field of anti-corruption. Several speakers mentioned specific measures that their countries had taken to facilitate the return of assets, including the strengthening of legislation and the creation of special bodies or the identification of existing bodies as central authorities for domestic coordination and provision of mutual assistance in asset recovery cases. One speaker reported on how his country had reformed its criminal legislation to recognize foreign forfeiture and confiscation orders. Some speakers highlighted the importance of using non-conviction-based freezing and confiscation proceedings to recover stolen assets, and cited successful examples thereof.

27. One speaker recommended that the Group consider the inclusion of the matter of mutual recognition of non-conviction-based freezing and confiscation orders in its agenda for future meetings.

28. Several speakers suggested the addition of collecting information and examples on ensuring transparency and accountability in the return and disposal of assets to the Group's agenda. The need to continue the implementation of chapter V and to have good faith cooperation and strong political will in requesting and requested States were stressed by many speakers as key to the successful resolution of asset recovery cases.

29. Despite the positive trends that had been witnessed, speakers expressed their concern regarding the impediments that remained to international cooperation on asset recovery. Many speakers referred to differences in and complexities of national systems and procedures, the lack of awareness among practitioners of procedures available at the national level, and delays in responding to mutual legal assistance requests and onerous evidentiary requirements. Speakers agreed that those impediments indicated that the Convention was yet to be fully implemented. One speaker described efforts to make mutual legal assistance delivery more effective through the creation of specialized units.

30. Regarding transparency in the area of beneficial ownership, several speakers shared information about recent legislative and policy developments in their countries for enhanced identification of beneficial owners of corporate vehicles. One speaker reported that his State had established a public beneficial ownership registry, and urged others to follow that example.

31. Some speakers proposed that a new international legal instrument on asset recovery be developed to promote more effective cooperation among States in asset recovery. Several speakers expressed the view that the Convention provided a sufficient framework for asset recovery. Several speakers noted that discussions on the need for a new instrument were premature, in particular in view of the ongoing review of implementation of chapter V of the Convention. They noted the comprehensive and far-reaching nature of chapter V and said that it provided a good basis for asset recovery that could be further operationalized by way of developing guidelines and good practices, rather than new obligations.

32. Many speakers welcomed the non-binding guidelines on the management, use and disposal of frozen, seized and confiscated assets contained in document CAC/COSP/WG.2/2018/3 and expressed the view that more time should be allocated for further review of and making comments and holding discussions on those guidelines. One speaker informed the Group that an international expert meeting on the management, disposal, use and recovery of frozen, seized and confiscated assets had been organized in Antigua, Guatemala, from 2 to 4 May 2018 by Guatemala and UNODC. The restitution of stolen assets, relevant experiences and the non-binding guidelines had been discussed at that meeting.

V. Thematic discussions

Timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention: collection of data with a view to developing non-binding guidelines; and improving communication and coordination between various asset recovery practitioner networks, with a view to developing guidelines for the proactive and timely sharing of information

33. A representative of the secretariat introduced the background note on the timely sharing of information in accordance with article 56 of the Convention and improving communication and coordination between various asset recovery practitioner networks (CAC/COSP/WG.2/2018/5). The document contained information on the practices of States and also contained information provided by States parties in response to a note verbale sent on 2 May 2017 on the timely sharing of information, as well as information contained in the country reports and executive summaries of the States parties that had finalized their country reviews on article 46, paragraph 4, of the Convention since the previous meeting of the Working Group. In addition, the document contained an overview of practitioners' networks relevant to asset recovery, with a view to determining the role of focal points in information exchanges and in examining how those networks ensured communication and coordination. Lastly, the document contained draft non-binding guidelines on the timely sharing of information and improved communication and coordination between asset recovery practitioner networks, for consideration by the Working Group.

34. To facilitate discussions under the agenda item, a panel discussion on the timely sharing of information in accordance with article 56 of the Convention and on improving communication and coordination between various asset recovery practitioner networks was organized.

35. The panellist representing the Camden Asset Recovery Inter-Agency Network informed the Group about the role of the Network in supporting countries in their asset recovery efforts. The Network had been launched in 2004 as an informal network of English-speaking law enforcement and judicial practitioners. It comprised 57 registered member jurisdictions, 10 international organizations and 6 regional asset recovery networks. The panellist explained that the Network's four-pillar strategy was: (a) to develop cooperation among the Network's contact points and international partners; (b) to enhance effective information exchange; (c) to develop the Network as a centre of excellence; and (d) to make an impact on policies related to asset recovery. In addition, the panellist highlighted the importance of the Network's efforts to build trust between practitioners to enhance cooperation. Further, the panellist noted that the Network supported other agencies' efforts to establish regional networks in regions that did not have such networks, including the UNODC initiative in West and Central Asia. Lastly, she recommended closer cooperation with the asset recovery focal points of INTERPOL and the StAR Initiative and highlighted the importance of spontaneous exchanges of information within the networks.

36. The panellist representing the Asset Recovery Inter-Agency Network for East Africa and the Asset Recovery Inter-Agency Network for Southern Africa informed the Group that the Asset Recovery Inter-Agency Network for East Africa had been launched in November 2013, as part of the East African Association of Anti-Corruption Authorities, with the objective of providing an informal network in the East Africa region for the exchange of information that would lead to the recovery of assets acquired through crime. The Network also worked with other regional networks, six of which were observers. The panellist explained the differences in the legal frameworks that governed asset recovery among the States members of the Network and informed the Working Group that the Network was working on guidelines on exchanging information and requesting assistance between States members of the Network. The panellist informed the Group about a successful recovery case (the Chickengate scandal), during which the investigators had used the Network informally before proceeding with formal requests for assistance. She also informed the Group about the Asset Recovery Inter-Agency Network for Southern

Africa, which was an informal multi-agency network for countries in Southern Africa. The panellist noted that the two networks regularly exchanged information and concluded by highlighting the challenges facing asset recovery efforts, including the lack of non-conviction-based confiscation in some of the States members of the Network, language barriers and delays in obtaining information requested from other networks.

37. The panellist from Panama provided an overview of the activities of the Asset Recovery Network of the Financial Action Task Force of Latin America. He explained that the Network was the result of an initiative by UNODC, implemented with the support of the Inter-American Drug Abuse Control Commission of the Organization of American States and the Financial Action Task Force of Latin America and that it consisted of 16 member States and 2 observers. He highlighted that the objectives of the Network included facilitating the exchange of information for the identification, tracing and recovery of proceeds of crime, promoting the exchange of information to support mutual legal assistance and enabling the exchange of good practices and experiences. He noted that, since 2010, information had been exchanged through a secure electronic platform and he concluded by highlighting the importance of furthering cooperation among all asset recovery regional networks.

38. The panellist representing the Asset Recovery Inter-Agency Network for Asia and the Pacific informed the Working Group about the Network, which consisted of 21 members and 8 observers. He highlighted the importance of formal and informal international cooperation in the framework of asset recovery, both within the Network and across other regional networks. He highlighted some of the challenges related to spontaneous exchanges of information, including the lack of formal investigations conducted against assets or persons, the lack of legal frameworks and/or mechanisms in the requested States enabling joint investigation or other form of international cooperation and the lack of guidelines and best practices to deal with the spontaneous exchange of information. He explained that the Asset Recovery Inter-Agency Network for Asia and the Pacific could communicate with other jurisdictions through the secretariats of other similar networks. He noted that the Network's contact points provided expertise and effective advice within the scope of their jurisdictions' legal frameworks, thus facilitating cooperation through mutual legal assistance channels. He concluded by emphasizing the need for mechanisms for and guidelines on handling the information shared within the Network and underlined that it should not compete with, but rather strengthen, formal mutual legal assistance channels.

39. The panellist representing the International Anti-Corruption Coordination Centre informed the Group that the Centre had been established in July 2017, following the Anti-Corruption Summit held in London in May 2016, as a response to the historical lack of effective coordination of law enforcement authorities in grand corruption cases. The Centre consisted of specialist law enforcement agencies representing six countries and INTERPOL. Its overarching goal was to coordinate a global response to grand corruption cases. To date, the Centre had received 19 referrals of grand corruption cases and had disseminated four composite information packages containing relevant analysis and intelligence gathered by its member agencies. The panellist reiterated the Centre's willingness to continue its work with partners to promote the exchange of information on grand corruption cases.

40. In the ensuing discussion, speakers highlighted the important role played by the regional asset recovery networks in fostering informal cooperation and facilitating formal cooperation. In addition, speakers noted that each network complemented the others and stressed the need to promote exchange of information between them. Several speakers underscored the importance of cooperation between financial intelligence units and asset recovery offices.

41. One speaker stressed that the return of stolen assets to the victim State was an obligation of States parties, that cooperation in asset recovery should also respect the sovereignty of States parties and that other States or international organizations should not interfere in any way.

42. One speaker pointed out that the asset recovery networks should supplement rather than replace existing mutual legal assistance channels. Another speaker suggested that the networks should be used in parallel to mutual legal assistance channels in order to be time-efficient. In addition, one speaker underscored the need to keep the lists of contact points, maintained by the networks, updated, with a view to enhancing the usefulness of such networks.

43. Several speakers requested the secretariat to continue working on the draft non-binding guidelines concerning the timely sharing of information and referred to the possibility of providing written comments on the document for further discussion at the next meeting of the Group. One speaker recommended that States take the necessary steps in order to join such regional networks and to publish asset recovery guides and their country review reports, as they served as sources of information for practitioners in understanding the laws of each other's countries.

VI. Forum for discussions on capacity-building and technical assistance

44. At its meetings held jointly with the Implementation Review Group on 6 June 2018, the Working Group on Asset Recovery considered item 5 of its agenda, entitled "Forum for discussions on capacity-building and technical assistance", as well as item 4, entitled "Technical assistance" of the agenda of the Implementation Review Group (CAC/COSP/IRG/2018/1). The joint meetings were held in line with resolution 6/1 of the Conference, in which the Secretariat had been requested to structure the provisional agendas of the Implementation Review Group and the other subsidiary bodies established by the Conference in such a way as to avoid the duplication of discussions, while respecting their mandates. The joint meetings were also held pursuant to the workplan agreed for the period 2017–2019.[1]

45. A representative of the secretariat presented a conference room paper on technical assistance in support of the implementation of the Convention against Corruption, including analysis of technical assistance needs emerging from the country reviews during the second cycle of the Implementation Review Mechanism (CAC/COSP/IRG/2018/CRP.2). Noting that the executive summaries of the country reviews of nine States had been finalized during the second cycle by the time of the meeting, she explained that technical assistance needs had been identified in six of those executive summaries. Of the needs identified, two thirds related to chapter II (Preventive measures) and one third to chapter V (Asset recovery) of the Convention. Overall, the most commonly identified need was capacity-building, specifically with regard to the enhancement of technical skills and the capacity to monitor and assess data. The need for legislative assistance had also been identified by a few States. She also explained that, while discussions during country visits frequently focused on rules on virtual and cryptocurrencies, only one State had identified a need for assistance relating to confiscation with regard to virtual currencies. She noted that some States that had identified technical assistance needs during the first cycle had not done so in the second cycle. That could be an indication that follow-up to first cycle recommendations was showing tangible results, but further information was required to confirm that encouraging observation.

46. In relation to technical assistance in support of the Convention, the representative of the secretariat outlined a number of actions taken, including the regional platform approach to fast-track the implementation of the Convention in East Africa and South-East Asia, funded by the Cross-Government Prosperity Fund of the United Kingdom. UNODC had also continued its support for the strengthening of regional networks engaged in asset recovery and confiscation. She presented the

[1] Information on the panel and the ensuing discussions on using the reviews of the implementation of the Convention as a basis for programme development, which were held during the joint meetings of the two working groups, is contained in the report on the ninth session of the Implementation Review Group (CAC/COSP/IRG/2018/8).

conference room paper entitled "Summary of the study on effective management and disposal of seized and confiscated assets" (CAC/COSP/WG.2/2018/CRP.1), together with the draft non-binding guidelines on the management of frozen, seized and confiscated assets (CAC/COSP/WG.2/2018/3). It was noted that the secretariat, in continuing its work on the two papers, encouraged States to continue sharing comments and good practices with it. The non-binding character of the guidelines was underscored and the representative of the secretariat explained that the role of the guidelines was to serve as an inspiration and guidance for States wishing to enhance or review their asset management structures.

47. The introductory remarks by the representative of the secretariat were followed by an overview delivered by the Coordinator of the StAR Initiative. The overview was focused on the technical assistance and capacity-building delivered by the Initiative since the Working Group on Asset Recovery had met last.

48. The StAR Initiative Coordinator explained that country engagements were designed as multi-year programmes and covered a wide range of activities, including tactical analysis and establishment of asset recovery strategies, financial investigation techniques, asset disclosure, forensic audits in preparation for cases, case management advice, facilitation of contacts and case consultations with other jurisdictions, and assistance with mutual legal assistance requests. Work was undertaken with financial intelligence units, law enforcement agencies, public prosecutors, central authorities, judges and magistrates. Such assistance entailed both capacity-building activities and targeted, case-related support. The methodology for the StAR Initiative assistance included training workshops and the placement of mentors and the facilitation of cooperation, both domestically and internationally.

49. The StAR Initiative Coordinator noted that, during the previous year, 20 countries had received assistance through the Initiative. In December 2017, the StAR Initiative had facilitated the organization of the Global Forum on Asset Recovery, which had been hosted by the United States and the United Kingdom. There had been 250 participants, representing 26 jurisdictions. More than 100 bilateral meetings had taken place, at which ongoing cases had been discussed, focusing on Nigeria, Sri Lanka, Tunisia and Ukraine.

50. The StAR Initiative had also continued its work on the development of knowledge products and had supported the publication of beneficial ownership guides and the finalization of the guidelines for the efficient recovery of stolen assets, developed during the Lausanne process.

51. A representative of the Secretariat provided background information on initiatives to promote progress in asset recovery cases, which was the topic of the panel discussion.

52. In briefing the meeting on the Global Forum on Asset Recovery, a panellist from the United States explained that the Forum had been established following the Anti-Corruption Summit held in London in December 2016, in response to emerging needs from four focus countries: Nigeria, Sri Lanka, Tunisia and Ukraine. The objective of the Forum was to advance the recovery of assets such as through the building of capacity, dialogue and making progress on actual asset recovery cases. The Forum had been attended by practitioners involved in ongoing cases in the focus countries and its programme had included plenary sessions on various relevant topics and technical sessions for three workstreams: (a) prosecutors; (b) technical assistance providers; and (c) investigators. There had also been a separate workstream for civil society organizations. He explained that the Forum was a process, not just a meeting, and had included the preparation of technical assistance road maps for each of the four focus countries, capacity-building for practitioners, bilateral and multijurisdictional case discussions and technical assistance provided during the meeting, as well as follow-up after the meeting in order to build the long-term capacity of the focus countries. He explained that the discussions held during the event had facilitated practical progress on cases in the focus countries and highlighted specific outcomes, including the signing of a memorandum of

understanding between the World Bank, Nigeria and Switzerland for the return of $321 million to Nigeria.

53. The panellist from Sri Lanka described the efforts that had been made following a regime change in Sri Lanka in 2015. He explained that the new Government had made a global appeal for the return of stolen assets. He emphasized the particular difficulties that countries could experience in international cooperation and the importance of establishing a domestic coordination mechanism. He also emphasized the importance of political will, which, in the case of Sri Lanka, had led, among other things, to the establishment of a financial crimes unit in the police and the strengthening of the main anti-corruption agency. Other efforts included improving the legal framework through a participatory process involving civil society. The speaker explained that their efforts were being aided by the Global Forum on Asset Recovery process and by asset recovery training, which had culminated in over 38 meetings with international counterparts on pending cases. While international cooperation remained a challenge in terms of engaging with a few jurisdictions, he expressed optimism and called for asset recovery to remain a global priority and for the continued investment of resources in asset recovery.

54. The panellist from Norway recalled that asset recovery needed to be viewed in the overall context of the Sustainable Development Goals, in particular the discussion on financing for development. She emphasized the enormity of the task of mobilizing resources to achieve the 2030 Agenda for Sustainable Development and said that progress in particular cases had yet to transform into systematic and consistent momentum. She reported on the challenges in investigating and prosecuting grand corruption cases in Norway, including very long timelines for concluding cases. She stressed the readiness of Norway to continue supporting regional practitioners' networks, the importance of technical assistance as an indication of political support and the need to guarantee the independence of practitioners.

55. The panellist from the StAR Initiative reiterated the ongoing nature of the Global Forum on Asset Recovery process. She explained that the preparations for the event had been a collaborative effort by all four focus countries and multiple relevant jurisdictions. Those efforts had included the provision of technical assistance such as training, the provision of legal advice, the organization of bilateral and multilateral meetings and dialogue, and the involvement of civil society.

56. In the ensuing discussion, several speakers expressed their appreciation for the Global Forum on Asset Recovery, recognizing its potential to build political momentum and consensus, including on principles of transparency. Speakers noted with appreciation the technical assistance provided and the work carried out by UNODC. One speaker emphasized the need to strengthen international cooperation for the return of stolen assets in view of the 2030 Agenda, and proposed further work in that regard, including the compilation of information on refusal of requests. Speakers expressed appreciation for the work of the secretariat on preparing non-binding guidelines on the timely sharing of information and on the management of returned assets. Those documents were to be the subject of further discussion during subsequent meetings of the Working Group. Another speaker highlighted the challenges faced by States in securing international cooperation using administrative and civil proceedings to recover stolen assets and urged further discussion of the topic in the context of the Working Group and in the framework of technical assistance activities. Another speaker, while acknowledging those challenges, stressed the need to also focus on furthering cooperation in criminal proceedings. One speaker highlighted those challenges and emphasized the need for the elimination of safe havens that created incentives for the transfer abroad of stolen assets. Another speaker, while acknowledging those challenges, noted that the subject of safe havens had already been addressed by the open-ended intergovernmental expert meetings to enhance international cooperation under the United Nations Convention against Corruption.

57. Many speakers expressed their readiness to provide technical assistance and described their regional and thematic technical assistance programmes. They stressed the importance of partnerships, including through the support of networks and the building of synergies with other relevant international organizations in order to make the best use of available resources, knowledge and expertise and to avoid duplication in the provision of technical assistance. One speaker emphasized the need for a country-led, country-based integrated and coordinated approach to technical assistance. Another speaker highlighted the benefits of publishing full country review reports in order to promote greater understanding of the technical assistance needs of the States parties under review. One speaker noted the importance of linking the thematic reports on trends from both review cycles to technical assistance programming, and of involving civil society in relevant activities. Several speakers reiterated the importance of the continued discussion and research on impact of settlements on asset recovery. Several speakers also noted the importance of collecting information on the practice of application of value-based seizure orders.

58. A panel on partnerships on asset recovery was organized. A representative of the secretariat provided background information on the topic of the panel.

59. The panellists from Germany and the International Centre for Asset Recovery of the Basel Institute on Governance briefed the Group on the "Africa-Europe dialogue on asset recovery", which had been organized by the German Agency for International Cooperation and the International Centre for Asset Recovery and held in Berlin on 21 and 22 March 2018. The panellists pointed out that asset recovery could contribute to domestic resource mobilization in order to close the financing gap for the Sustainable Development Goals. They noted that participants in the dialogue had agreed that, while the Convention provided the framework for international cooperation on corruption cases and asset recovery, cooperation was a shared responsibility between requesting and requested States. They had highlighted that they still faced particular difficulties with regard to the enactment of asset recovery-enabling measures such as the establishment of the offence of illicit enrichment and non-conviction-based confiscation of unexplained wealth. Some of the proposed measures, which would facilitate asset recovery, had included enhanced action against banks, lawyers and other enablers in the countries where assets were located.

60. The panellist from Switzerland provided an overview of the so-called Addis process and of his country's experience with asset return. He explained that the Addis process had been initiated by Ethiopia and Switzerland, with the support of UNODC, to bring together the various agendas of financing for development, asset recovery and sustainable development. The process comprised the following: (a) management of seized and confiscated assets; (b) end use of returned assets in support of the Sustainable Development Goals; and (c) negotiation of agreements for returning assets. He underlined that, while each case was different and involved different countries, needs and amounts, there were nevertheless similarities and general recommendations that would enhance cooperation, including the importance of partnerships, transparency and accountability.

61. The panellist from China introduced a conference room paper containing ten recommendations on asset recovery (CAC/COSP/WG.2/2018/CRP.3), which had been recently proposed as the outcome of discussions at the APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies training workshop on asset recovery, held in Bangkok in March 2018. The recommendations were grouped into three sections: commitment, cooperation and capacity-building. In the first section, it was recommended that APEC member States reiterated their political commitment to the Convention and to denying safe haven to corruption offences and proceeds of corruption. In the second section, it was recommended that APEC member States proactively used the Convention as a legal basis for mutual legal assistance and asset recovery. In the third section, the importance of capacity-building was stressed. The panellist reiterated his country's commitment to denying safe haven to corrupt officials and ill-gotten assets, based on the concept of zero-tolerance to

corruption, zero loopholes in mechanisms for asset recovery and zero obstacles to cooperation.

62. In the ensuing debate, speakers welcomed the organization of the Africa-Europe dialogue on asset recovery and the Addis process. Several speakers referred to their countries' experiences in sharing intelligence for the purpose of asset recovery, and to their successes and challenges in seizing, freezing and confiscating proceeds of corruption. Speakers emphasized the importance of regional asset recovery inter-agency networks for the sharing of case-related information, as well as the role of financial intelligence units and the Egmont Group. Speakers also underlined the importance of technical assistance in the field of asset recovery.

63. One speaker suggested that forums similar to the Global Forum on Asset Recovery be held in other regions.

64. A representative of the International Anti-Corruption Academy underscored the crucial importance of education and training of anti-corruption practitioners and presented an overview of the Academy's programmes, including the master's degree in anti-corruption studies.

65. A number of speakers welcomed the organization of joint meetings of the Working Group and the Implementation Review Group.

VII. Conclusions and recommendations

66. The Working Group re-emphasized the importance of the continuing efforts of States parties to build trust and confidence, strengthen political will and overcome barriers to cooperation in asset recovery.

67. The Working Group re-emphasized the importance of asset recovery as an important factor of the domestic resource mobilization required for the achievement of the Sustainable Development Goals.

68. The Working Group welcomed the holding of joint meetings with the Implementation Review Group on technical assistance and capacity-building.

69. The Working Group encouraged States to make use of their reviews during the second review cycle to enhance their implementation of chapter V of the Convention and to request technical assistance to address any challenges identified.

70. The Working Group adopted its workplan for the period 2018–2019. One speaker expressed support for discussions, in the context of the subject of third-party challenges as contained in the workplan, that included consideration of the impact of contingency attorney fees, which were fees in cases where Governments contracted private attorneys for representation in asset recovery matters in exchange for the attorneys receiving a percentage of funds that might be recovered, on asset recovery proceedings and the value of assets recovered by the people harmed by the corruption.

71. The Working Group commended the work done by the Secretariat on the directories of competent national authorities, in particular, the development of the database containing the contact details of asset recovery focal points. The Group recommended enhancing its capabilities by, inter alia, exploring the introduction of additional technical functions allowing for the timely and secure sharing of information between focal points.

72. The Working Group commended the Secretariat's efforts to merge the TRACK portal and SHERLOC and requested that it continue those efforts.

73. The Working Group highlighted the importance of further research into cooperation in the tracing of assets, civil actions for the purposes of asset recovery and recognition and enforcement of foreign confiscation orders as important practical areas relevant to strengthening cooperation in asset recovery matters.

74. The Working Group recommended that the Secretariat collect information on the practice of mutual recognition of non-conviction-based freezing orders and confiscation judgments.

75. The Working Group recommended that the Secretariat collect information on examples of how countries have worked together to ensure transparency and accountability in the return and disposal of confiscated proceeds of corruption.

76. The Working Group encouraged States to consider introducing non-conviction-based confiscation as a useful legal mechanism for asset recovery.

77. The Working Group highlighted the importance of studying and overcoming challenges associated with access to beneficial ownership information and requested the secretariat to continue updating the Group on future activities in that regard.

78. The Working Group urged States to share information in a proactive and timely fashion, as that was a crucial step in the success of transnational asset recovery cases.

79. The Working Group recommended that States continue strengthening and developing asset recovery practitioners' networks and use the Working Group meetings for informal cooperation in corruption matters. The Group welcomed the creation of the directory of asset recovery networks by the StAR Initiative.

80. The Working Group took note of document CAC/COSP/WG.2/2018/5 and supported the further study and consideration of and discussions on the non-binding guidelines on the timely sharing of information in accordance with article 56 of the Convention and improving communication and coordination between various asset recovery practitioner networks. It requested the Secretariat to submit them to States parties for comments.

81. The Working Group took note of the results of the international expert group meeting on identifying good practices in the management and disposal of seized and confiscated assets, held in Washington, D.C., on 7 and 8 December 2017, and the study on the effective management and disposal of seized and confiscated assets contained in CAC/COSP/WG.2/2018/CRP.1. The Group encouraged further compilation of experiences and comments, including those of Working Group participants, with a view to holding discussions on them at the second resumed ninth session of the Implementation Review Group, as well as at the next meeting of the Working Group.

82. The Working Group welcomed the progress that had been made in enhancing the recovery and return of stolen assets and, in particular, the positive role played by UNODC and the StAR Initiative in supporting that process and providing relevant technical assistance.

83. The Working Group noted the organization of the Global Forum on Asset Recovery and the APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies training workshop on asset recovery and also noted the possibility of organizing similar forums and workshops in the future.

VIII. Adoption of the report

84. On 7 June 2018, the Working Group adopted the report on its twelfth meeting (CAC/COSP/WG.2/2018/L.1 and CAC/COSP/WG.2/2018/L.1/Add.1), including the parts of the report on items 3, 4 and 5, and its conclusions and recommendations.